

**Mandates of the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE: AL  
IRQ 3/2015:

30 July 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 26/7, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the alleged arrest, detention, and, in one case, the summary execution of four lawyers, Mr. **Mouayad Obeed al-Ezzi**, Mr. **Ziad Ghanem Shaaban al-Naseri**, Mr. **Salah Khabbas al-Obeidi** and Mr. **Badee Aref Izzat**, for discharging their professional functions.

According to the information received:

*The case of Mr. Mouayad Obeed al-Ezzi*

Mr. Al-Ezzi is a lawyer who represents several employees of and individuals with personal connections to the former Vice President Mr. Tariq al-Hashimi. His clients were arrested by the Iraqi security forces between November 2011 and March 2012 and detained in a secret location where they were allegedly subjected to torture with the purpose of extracting confessions. They were sentenced to death by the Central Criminal Court of Iraq after allegedly unfair trials. On 31 March 2013, the Central Investigation Court in Al Karkh issued an arrest warrant under article 4 of the Iraq Anti-Terrorism law against Mr. Al-Ezzi (case no. 1282/2013). The same court cancelled the arrest warrant on 24 June 2013 without further explanation. It is believed the arrest warrant was directly related to Mr. Al-Ezzi's role as legal representative for individuals linked to the former Vice President.

*The case of Mr. Ziad Ghanem Shaaban al-Naseri*

Mr. Al-Naseri is a lawyer who also represents several employees of and individuals with personal connections to the former Vice President Mr. Tariq al-

Hashimi. Mr. Al-Naseri was allegedly arrested on 21 November 2012 and detained in the anti-terrorism prison in Tikrit until 28 November 2012. He was allegedly arrested on the grounds of ‘harbouring a terrorist with the purpose of concealment’ as provided for in article 4.2 of the Anti-Terrorism law. While detained, Mr. Al-Naseri was not allowed to contact his family or a lawyer. It is believed Mr. Al-Naseri’s arrest and detention was directly linked to the cases he was a legal representative in.

*The case of Mr. Salah Khabbas al-Obeidi*

Mr. Al-Obeidi was a lawyer who also represented several employees of and persons with personal connections to the former Vice President Mr. Tariq al-Hashimi. Mr. Al-Obeidi was also a candidate in the provincial elections in the Saiidiya district of Baghdad in 2013 as a representative of the National Iraqi Alliance, an opposition party contesting the results of the 2010 parliamentary elections. On the morning of 24 March 2013, Mr. Al-Obeidi was in his office in the Al Saiidiya district of Baghdad when an armed group broke in and killed him. Neighbours who witnessed the incident reported that members of the Iraqi security forces were standing near the office of Mr. Al-Obeidi, but did not intervene during the incident or after it, letting the armed men leave the scene unhindered. To date, there has allegedly not been any official inquiry into the killing of Mr. Al-Obeidi.

*The case of Mr. Badee Aref Izzat*

Mr. Izzat is a lawyer who represented former Minister of Foreign Affairs Mr. Tareq Aziz and is currently representing Mr. Ahmad al-Alwani, a member of the Iraqi Council of Representatives and the secular Al Iraqiya block and a well-known critic of corruption within Iraqi political leadership and repression against Sunnis who was sentenced to death on 23 November 2014 by the Iraqi Central Criminal Court following an allegedly unfair trial. On 15 March 2007, while working as legal counsel to Mr. Aziz, Mr. Izzat was arrested by Iraqi and U.S. security forces for alleged contempt of the court. He was held in a detention centre under U.S. forces’ control in Baghdad and released on 19 March 2007. On 20 March 2014, at 11 a.m., Mr. Izzat was arrested by Iraqi special forces for allegedly carrying false identity documents on his way to a meeting with officials from the United Nations Assistance Mission for Iraq. Mr. Izzat was taken to an interrogation centre where he was questioned about his motives for defending Mr. Al-Alwani. He was blindfolded for about twelve hours and reportedly forced to make a video recording stating that he was not subjected to torture before he was released.

Mr. Izzat was arrested again on 2 June 2015 around 12 noon by Iraqi intelligence services together with a client of Syrian nationality at the Migration Affairs Directorate in Baghdad. Both men were brought to the police station in Al Za’franiya, South East of Baghdad, where they were kept until 6 pm. Mr. Izzat

was reportedly arrested on the basis of an arrest warrant issued against him in 2006 but annulled in 2008 by an amnesty law. Both men were released when Mr. Izzat explained he had benefitted from the amnesty law. Mr. Izzat's arrests and interrogation are reportedly directly linked to the discharge of his professional functions as a lawyer.

While we do not wish to prejudge the accuracy of these allegations, we are expressing serious concern that these four lawyers were arbitrarily arrested, detained, and in one case summarily executed, because of their professional activity as lawyers defending individuals in politically sensitive cases, or perceived as such. Additional concern is expressed that these cases may show a possible pattern of intimidation and harassment of lawyers who take up politically sensitive cases.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Have complaints been lodged by the lawyers or their relatives? If so, please describe how these have been processed and what has been the outcome.
3. Please provide the details, and where available the results, of any investigation, judicial inquiries or other inquiries which may have been carried out in relation to the arrest, detention and summary execution mentioned above. If no inquiry has taken place, or if they have been inconclusive, please explain why.
4. Have penal, disciplinary or administrative sanctions been imposed on the members of the Iraqi security forces involved in these cases or other alleged perpetrators?
5. Please indicate what measures, if any, have been taken to protect lawyers in Iraq and ensure that they can discharge their professional functions without intimidation, harassment or suffering sanctions of any kind. Please also indicate the measures taken, if any, to protect the security of lawyers when it is at risk.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any persons responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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Gabriela Knaul  
Special Rapporteur on the independence of judges and lawyers

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions

**Annex**  
**Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to draw your Excellency's Government attention to the International Covenant on Civil and Political Rights (ICCPR), ratified on 25 January 1971. In particular, we would like to draw your attention to article 9(1), which states that no one shall be deprived of their liberty except in accordance with procedures established by law, and article 9(2), which provides that anyone arrested shall be promptly informed of the charges against him/her.

With regards to the lawyer whose killing was allegedly not investigated, the ICCPR provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6). Additionally in its General Comment No. 31, the Human Rights Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its agents and by private persons or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by private persons or entities could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

We would like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. We urge your Excellency's Government in line with the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles), in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. This principle was reiterated by the Human Rights Council in Resolution 26/12 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4). The Council added that this includes the obligation "to identify and bring to justice those responsible ... to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions."

We would also like draw your Excellency's Government attention to the Basic Principles on the Role of Lawyers, and in particular principle 18, which requires that lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions. Furthermore, principle 16 of the Basic Principles on the Role of Lawyers states that governments must guarantee that lawyers are allowed to perform their professional duties without intimidation, hindrance, harassment or improper interference, and that lawyers shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in

discharging their professional functions. We would also like to highlight principle 17, which requires that Governments must ensure the security of lawyers.

We would further like to highlight principle 14(3) of the ICCPR which states that all persons have the right to be promptly informed of the charges against them and be given adequate time and facilities to prepare their defense and to communicate with counsel. We would also like to direct your attention to General Comment 32 of the Human Rights Committee, which explains that the right to communicate with counsel enshrined in Principle 14(3) includes the requirement that lawyers are able to represent their clients without suffering undue pressure or interference.

The actions allegedly taken by Iraqi forces also seem to be in contravention of domestic law. Article 24 and 28 of the Iraqi Law of Lawyers provides that lawyers should not be considered responsible for the arguments they put forward in their defence case and should not be accused or arrested for defamation while exercising their professional duties. Article 30 of the Iraqi Law of Lawyers also states that the Iraq Bar Association must be informed if any of its members is under judicial inquiry for any act committed during the exercise of his or her functions.