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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 6/4, 7/12, 7/36, 7/8, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **excessive use of force against peaceful protesters by Iraqi security forces during the ongoing demonstrations, which have been taking place in Baghdad since early February 2011.**

According to the information received:

Since early February 2011, peaceful demonstrations have been taking place in Baghdad calling for civil rights and freedoms and protesting against the unemployment, corruption and poor social services. On at least three occasions, namely on 17, 19 and 23 February 2011, Iraqi security forces live ammunition fired into demonstrations resulting in a number of deaths and injuries. In this respect, we would like to express our grave concern with regard to reports of at least four protesters who have reportedly been killed by security forces; six protesters who have reportedly been arrested, subjected to torture and other forms of ill-treatment before being released; as well as one demonstrator whose fate and whereabouts remain unknown but who has been reported to be in the custody of your Excellency's Government.

We would like to draw your Excellency's Government's attention to the circumstances of the cases of the following individuals:

On 13 February 2011, during the protest, **Mr. Oday Alzaidy**, an activist, was approached by a group of armed security forces in plain clothes asking to relocate the protest to an alternative spot. It is claimed that Mr. Alzaidy went in an army vehicle to the alternative location where he was forced into another vehicle, blindfolded and driven to an unknown location. Mr. Alzaidy was beaten, subjected to torture and other forms of ill-treatment before being released five days later. He had reportedly spent two days in hospital following his release.

On 17 February 2011, thousands of demonstrators gathered in Azady 'Freedom Square' in Baghdad. Following the protest, hundreds of people marched towards the governmental buildings and started throwing stones at the guards. It is reported that **Mr. Rezhwan 'Ali**, aged 15, was shot dead after security forces responded by firing live at the crowd.

On 19 February 2011, following the protests in 'Freedom Square', hundreds of protesters walked towards the Kurdistan Democratic Party headquarters to protest against the 17 February 2011 events when a 15-year-old boy was shot dead by security forces. It is reported that following the shooting by Iraqi security forces, including with Kalashnikov rifles and pistols, **Mr. Surkew Zahid**, aged 16, and **Mr. Sherzad Taha**, aged 28, have died from sustained injuries. On 25 February 2011, **Mr. Mu'ataz Muwafaq Waissi**, and an unknown demonstrator had reportedly been shot by Iraqi security forces who had also reportedly used deafening sound bombs and fired shots in the air in an attempt to disperse the crowd.

On 24 February 2011, **Mr. Abdel-Jabbar Shaloub Hammadi** was reportedly arrested by Iraqi police forces, beaten and transferred to a police station in al-Baladiyat district where he was held for 12 days. During this period, Mr. Hammadi was subjected to beating, including by being tied up and suspended from the ceiling. He was reportedly transferred to the Intelligence Department in Sahat al-Nussur district in Baghdad and subsequently released on 8 March 2011.

On 25 February 2011, **Mr. Hadi al-Mehdi**, a journalist and writer, was reportedly arrested by a group of Iraqi police forces, who forced him into a police vehicle and took him to a police station located at the former building of the Defence Ministry. Mr. Hadi al-Mehdi was beaten, subjected to electric shocks and threatened with rape before being released on 26 February 2011.

On the same day, **Mr. Sharwan Azad Faqi 'Abdallah**, aged 35, an NGO worker was arrested by Iraqi security forces in plain clothes in Erbil. He was beaten and taken to the Asayish Gishti interrogation center in Erbil where he was detained for

four days. Mr. ‘Abdallah was subjected to torture, forced to sign a written testimony without reading it before he was released on an unknown date.

On 1 April 2011, **Mr. Haidar Shihab Ahmad Abdel Latif**, aged 24, is reported to have been detained by Iraqi security forces during the demonstration in Tahrir Square, Baghdad. His fate and whereabouts remain unknown. It is reported that a member of his family who is a political activist, fears that Mr. Haidar Shihab Ahmad Abdel Latif was mistakenly arrested instead of him.

If the allegations concerning Mr. Haidar Shihab Ahmad Abdel Latif are true and if his fate and whereabouts have not been revealed, this would amount to enforced disappearance.

On 8 April 2011, **Mr. ‘Ala Nabil**, a political activist, has reportedly been detained by Iraqi security forces in plain clothes near Tahrir Square in Baghdad as he was leaving the demonstration together with at least five other young men. It is reported that Mr. Nabil was previously arrested by Iraqi armed forces in connection with the demonstration held on 21 March 2011, in Baghdad. He was then held for several hours and subjected to torture while in detention, including beating by a cable cord.

It is reported that two of the five detainees who were released within hours of their arrest claimed to have been taken to an unknown location, beaten and tortured including by applying electric shocks. Mr. Nabil was reportedly released on 16 April.

On 13 April 2011, at about 2:00 p.m., **Mr. Firas’ Ali**, aged 30, an Iraqi political activist was reportedly detained at the office of the Federation of Workers’ Councils and Unions by the members of the armed forces in plain clothes who did not present an arrest warrant, nor did they explain the reason for his arrest. Mr. Firas Ali was reportedly blindfolded, beaten, handcuffed, forced into a vehicle and driven away to an unknown destination. Mr. Ali was reportedly released on 26 April.

In addition, we have received reports according to which, on 23 February 2011, Iraqi security forces raided the office of the Journalistic Freedoms Observatory in Baghdad, confiscating IT equipment and its archive. The organization has reportedly been campaigning for media freedom in Iraq for several years.

In view of the allegations according to which the fate and whereabouts of Mr. Haidar Shihab Ahmad Abdel Latif remain unknown, serious concern is expressed about his physical and psychological integrity. Serious concern is expressed concerning the allegations that Messrs. Oday Alzaidy, Abdel-Jabbar Shaloub Hammadi, Hadi al-Mehdi, Sharwan Azad Faqi ‘Abdallah, and ‘Ala Nabil, Firas’ Ali were arbitrarily detained, subjected to torture and other forms of ill-treatment and threatened. Given these allegations concern is expressed for their further

safety. In addition, grave concern is expressed about the physical and mental integrity of Iraqi demonstrators, activists and politicians who have been targeted by Iraqi security forces since the beginning of demonstrations. Further concern is expressed that the detention of Messrs. Oday Alzaidy, Abdel-Jabbar Shaloub Hammadi, Hadi al-Mehdi, Sharwan Azad Faqi ‘Abdallah, Ala Nabil, Firas’ Ali, as well as the alleged detention and possible enforced disappearance of Mr. Haidar Shihab Ahmad Abdel Latif may be linked to their legitimate right to exercise freedom of opinion and expression.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency’s Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

With regard to the alleged deaths and injuries which may have resulted from the excessive use of force, we would like to draw your Excellency’s Government’s attention to principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Furthermore, Principle 5 provides that “Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” (Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havane, Cuba, 27 August to 9 September 1990).

Furthermore, without expressing at this stage an opinion on the facts of the cases and on whether the alleged detention in an undisclosed location of Mr. Haidar Shihab Ahmad Abdel Latif is arbitrary or not, we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the UDHR and articles 9 and 14 of the ICCPR.

In relation to the allegations according to which the fate and whereabouts of Mr. Haidar Shihab Ahmad Abdel Latif are unknown, we would like to bring to your Excellency’s Government’s attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which sets out necessary protection by the State, including in:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);

- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);
- article 6 (no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance);
- article 7 (no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances);
- article 9 (right to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty);
- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest); and
- article 12 (right to the maintenance in every place of detention of official up-to-date registers of all detained persons).

We would also like to draw the attention of your Excellency's Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

Furthermore, with regard to the allegations indicating that Messrs. Oday Alzaidy, Abdel-Jabbar Shaloub Hammadi, Hadi al-Mehdi, Sharwan Azad Faqi 'Abdallah, 'Ala Nabil, Firas' Ali were subjected to beating and other forms of torture and cruel, inhuman or degrading treatment while in detention, we would like to draw your Excellency's Government's attention to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

In this context, we would also like to draw your Excellency's Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States

“To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.”

We would also like to remind you that paragraph 7e of Human Rights Council Resolution 16/23, which urges States “To ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken.”

Regarding the fact that the alleged violations took place in the context of peaceful demonstrations, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime

responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; and

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary accurate?

2. Please provide information on the fate and whereabouts of Mr. Haidar Shihab Ahmad Abdel Latif. If his fate and whereabouts are unknown, please provide the details on any investigation or other queries which may have been carried out. If no queries have taken place, or if they have been inconclusive, please explain why.
3. In case the allegations of arrest and detention in an undisclosed location of Mr. Haidar Shihab Ahmad Abdel Latif are corroborated, please provide information concerning the legal grounds for his continued detention and how these measures are compatible with international norms and standards as stated, inter alia, in the International Covenant on Civil and Political Rights.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the cases of Messrs. Oday Alzaidy, Abdel-Jabbar Shaloub Hammadi, Hadi al-Mehdi, Sharwan Azad Faqi ‘Abdallah, ‘Ala Nabil and Firas’ Ali. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please indicate whether compensation has been provided to the families of Mr. Rezhwan ‘Ali, Mr. Surkew Zahid, Mr. Sherzad Taha, and Mr. Mu’ataz Muwafaq Waissi.
6. Please provide information on the laws governing the use of force when policing assemblies and please explain how these laws comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

We would also like to bring to the attention of your Excellency’s Government that should the source submit the above mentioned allegations as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency’s Government will be informed by separate correspondence.

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

El Hadji Malick Sow
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Jeremy Sarkin

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