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**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandate of the Working Group on the use of mercenaries**

REFERENCE: AL G/SO 214 (2005-4)  
USA 6/2014

27 March 2014

Excellency,

I have the honour to address you in my capacity as Chair-Rapporteur of the Working Group on the use of mercenaries pursuant to Human Rights Council resolution 24/13.

Paragraph 18 of Human Rights Council resolution 24/13 requests the Working Group “to continue to monitor mercenaries and mercenary-related activities in all their forms and manifestations, including private military and security companies, in different parts of the world, including instances of protection provided by Governments to individuals involved in mercenary activities.”

In this connection, I would like to draw the attention of your Excellency's Government to information received regarding Mr. **Taha Yaseen Arraq Rashid**, Mr. **Asa'ad Hamza Hanfoosh Al-Zuba'e** and Mr. **Suhail Najim Abdullah Al Shimari** who were allegedly refused entry into the United States (U.S.) to participate in their lawsuit against CACI Premier Technology, a private military contractor at Abu Ghraib in Iraq.

The abovementioned individuals were the subjects of a communication transmitted to your Excellency's Government on 31 May 2013 from the Working Group on the use of mercenaries (“Working Group”) and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The communication referred to a lawsuit instigated by the abovementioned individuals against CACI Premier Technology, Inc., alleging torture and ill-treatment at Abu Ghraib in Iraq (Al Shimari v. CACI Premier Technology, Civil Action No. 08-cv-0827 (E.D. Va. filed Sept. 15, 2008)). All three men were reportedly released from U.S. detention in Iraq more than five years ago without charge. They were all granted visas to travel to the U.S. during the winter of 2012 to 2013 and were able to secure boarding passes for their flight from Baghdad to the U.S., scheduled for 15 March 2013. However, right before their departure, they were informed that U.S. authorities would not permit them to board the flight. All three men then immediately reapplied for expedited visas to travel to the U.S. but these visas were not granted and their lawyers reportedly contacted the Department of State but were not given any explanations as to the reasons these individuals were denied permission to board their flight to the U.S. or the status of their reapplication for expedited visas.

The communication also stated that the concerned individuals risked the dismissal of their case if they were unable to appear for deposition in the U.S. I regret that to date, your Excellency's Government has yet to respond to this communication.

According to new information received:

The case concerning Mr. Taha Yaseen Arraq Rashid, Mr. Asa'ad Hamza Hanfoosh Al-Zuba'e and Mr. Suhail Najim Abdullah Al Shimari was dismissed in June 2013 based on the U.S. Supreme Court's *Kiobel* decision, which establishes a requirement that cases under the Alien Tort Statute must "touch and concern" the U.S. and that the court did not have jurisdiction to hear the case because the alleged abuse occurred overseas. Reportedly, this decision did not explicitly rule on CACI's role in the allegations made against it.

It is the Working Group's responsibility under the mandate it has been provided by the Human Rights Council, to seek to clarify all cases brought to its attention. Since the Working Group is expected to report on these cases to the Human Rights Council, it would be grateful for your cooperation and your observations on the following matters:

1. The Working Group would appreciate the views of your Excellency's Government on the court's application of the *Kiobel* decision particularly as the case on which this communication is based concerns a U.S. corporation that contracted with the U.S. Government and is alleged to have conspired with certain U.S. service members on a U.S. base.
2. The Working Group would also appreciate the views of your Excellency's Government on the dismissal of the case in light of the obligation to provide a right of remedy for torture.
3. With the understanding that the case is on appeal, an explanation of the reason or reasons the plaintiffs were denied entry to the U.S. to pursue their right of remedy would be appreciated.

Finally, I would appreciate a response to this letter within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

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



Patricia Arias  
Chair-Rapporteur of the Working Group on the use of mercenaries

