

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**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**

**Mandates of the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and
Special Rapporteur on the situation of human rights defenders**

REFERENCE: UA G/SO 217/1 G/SO 214 (107-9)
IRQ 5/2011

10 October 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/16 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding Mr. **Qussai Abdelraouf Nasser**, who lives in New Baghdad (Al-Jadida), born in Iraq on 5 March 1982 who carries Palestinian identity document No. 2855053. Mr. Nasser has been working for the Palestinian Human Rights Foundation as a country representative since 2007, where he has documented violations and the deterioration of the human rights situation of Palestinians in Iraq, particularly their kidnappings and murders.

According to the information received:

Mr. Nasser has allegedly previously suffered persecution. In 2008, he was reportedly subjected to arrest and detained for two days by the police without any warrant, accusations or trial. This was reportedly under the jurisdiction of the Minister of Interior.

In September 2011, it is alleged that Palestinian refugees in the Al Baladyat neighbourhood were subjected to violations by the military and police forces (under the control of the Ministry of Interior). It is reported that they intimidated the Palestinians refugees and incited them to leave the country. Mr. Nasser went to the Al Baladyat neighbourhood to investigate the incident and document the

violations which were taking place to make the events known to the public and the authorities.

On 21 September 2011, at approximately 4:00 p.m., Mr. Nasser was walking away from the Al Baladyat neighbourhood when a black Chevrolet car stopped alongside him on the main road to the entrance of Al Baladyat neighbourhood. It is reported that three men wearing the black-coloured uniform of the Ministry of Interior forces forced Mr. Nasser into the car and drove away to an unknown location. Two cars from the Iraqi Police were reportedly present at the time, but the officers did not react. If these allegations are confirmed, this case may amount to an enforced disappearance.

Concern is expressed that the alleged disappearance of Mr. Nasser may be linked to his activities as a human rights defender, particularly due to his role documenting human rights violations against Palestinians in Iraq. Further concern is expressed regarding the physical and psychological safety of Mr. Nasser in light of the fact that there is no information about his whereabouts.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of Mr. Nasser.

Without in any way implying any determination on the facts of the case, in relation to the allegation that the fate and whereabouts of Mr. Nasser 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 practise, 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).

In this connection, we would also 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 6, point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.

- 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 Mr. Nasser 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 Mr. Nasser 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 of this case accurate?
2. Has a complaint been lodged on behalf of Mr. Nasser?
3. Please provide the details, and where available the results, of any investigation, judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please provide information on the fate and whereabouts of Mr. Nasser. If his fate and whereabouts are unknown, please provide the details on any investigation or other inquiries which may have been carried out. If no inquiries have taken place, or if they have been inconclusive, please explain why.

We would like to bring to the attention of your Excellency's Government that should the source submit the above mentioned as a case to the Working Group on Enforced or Involuntary Disappearances, it 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.

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.

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

Jeremy Sarkin
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders