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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

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 G/SO 214 (3-3-16) G/SO 214 (33-27) G/SO 214 (53-24)
IRQ 8/2013

28 November 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 17/2, 17/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to the information we have received regarding the case of Mr. **Ahmad 'Amr 'Abd al-Qadir Muhammad**, who is reportedly at risk of imminent execution in the Republic of Iraq.

Mr. Ahmad 'Amr 'Abd al-Qadir Muhammad was the subject of a previous joint urgent appeal sent to your Excellency's Government on 11 October 2012 by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We thank your Excellency's Government for the reply of 12 December 2012 on this case.

According to the new information received:

Mr. Ahmad 'Amr 'Abd al-Qadir Muhammad, a Palestinian born in the Republic of Iraq, currently aged 31, and sentenced to death in 2011 on the basis of the Anti-Terror Law of 2005, is currently held at the Maximum Security Prison (al-Himaya

al-Quswa) at Camp Justice in Baghdad, which is reportedly a prison where executions are carried out.

Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad is reported to be at risk of imminent execution, following the rejection of his application for retrial by the Court of Cassation on 12 November 2013. Allegedly, the defendant never appeared personally before the Court of Cassation during the review proceedings, and was limited to presenting written submissions only. It is reported that the review proceedings by the Court of Cassation in Iraq is a procedure based on written submissions only, where the accused does not appear before the Court despite the fact that the Court is tasked to review matters of law and fact, including the verdicts.

It is further reported that the review proceedings at the Court of Cassation did not address the allegations that Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad had been tortured during his detention and forced to confess. Allegedly, the admission of contested evidence, namely of the defendant’s confession under torture, to the trials was not examined by the Court of Cassation either.

As already mentioned in the previous communication, the allegations of incommunicado detention, torture and coercion to confess, as well as the admission of the defendant’s confession as evidence during the proceedings against him, are reiterated.

Without prejudging the accuracy of the information made available to us, we would like to reiterate our concerns as expressed in the previous communication that, according to the facts available to us, the execution of Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad would constitute a violation of international human rights law. We are particularly concerned about the continuous reports that the defendant was subjected to torture while held in incommunicado detention, including with the aim of forcing him to confess. We are also concerned about the new information received regarding other violations of his right to fair trial and due process guarantees.

In view of the irreversibility of the punishment of the death penalty, we urge your Excellency’s Government to take all steps necessary to prevent the execution of Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad, which, if carried out, would be inconsistent with acceptable standards of international human rights law. While we are grateful for your Excellency’s Government’s reply providing information on the temporary stay of the execution of Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad, we call upon your Excellency’s Government not to execute him and to commute without delay the death sentence imposed against him.

We would also like to refer to the international duties of your Excellency’s Government as mentioned in the previous communication, with particular regard to the international human rights law provisions on stringent respect of due process and fair trial

guarantees and of the “most serious crime” provision in death penalty cases, as well as on the prohibition of torture and ill-treatment in all circumstances.

With reference to the reply of your Excellency’s Government to the Joint Urgent Appeal of 11 October 2012 on this case, we are grateful for the detailed information provided on the case of Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad. At the same time, we would appreciate that your Excellency’s Government provides additional detailed information on the following matters:

1. Are the facts alleged in the summary of the new information received on this case accurate?

2. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the allegations of incommunicado detention, as well as the torture and the confession obtained under torture while in incommunicado detention in this case.

3. Please provide details on the evidence used to find Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad guilty of killing a police officer, in the context where in your Excellency’s Government’s reply it is indicated that the fatal shot against the killed officer was fired by another suspect. Please explain how the confession made during the investigation stage, which was later withdrawn, was used against the defendant as incriminating evidence in an event when the forensic report No. 10544, dated 20 August 2008, conducted two years after the statements of confessions had been recorded, stated that traces of scarring had been found on the accused. Please indicate how the evidence used in this case complied with Safeguard 4 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty, stating that “capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts”.

4. Please explain in detail the statements made in your Excellency’s Government’s reply about the compliance of terrorism-related offences under Iraqi law with the most serious crimes provision under international human rights law, which provides that the death penalty may be imposed for the crime of intentional killing only. In particular, please explain how the terrorism-related offences mentioned in your Excellency’s Government’s reply that do not involve intentional killing are compatible with the most serious crimes provision under international human rights law.

5. Please provide information on the proceedings held at the Court of Cassation to review the application of Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad for retrial, and indicate how they comply with the requirement and guarantees of a fair trial and due process as enshrined inter alia in article 14 of the ICCPR.

We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts. We undertake to ensure that your Excellency’s

Government's response is accurately included in the report we will submit to the Human Rights Council for its consideration.

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

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment