

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers; 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 First Vice-Chair of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 22/20, 24/6, 26/7, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arbitrary arrest and detention, initially *incommunicado*, torture and ill-treatment, including forced confessions, denial of access to adequate medical treatment, and religious intolerance, including at least two instances of denial to religious practice in detention, of **eight Kuwaiti citizens**, all Shia Muslims, namely **Mr. Hasan Al Attar, Mr. Jassim Mohamed Ghadanfari, Mr. Abdul Mohsen AlShatti, Mr. Hasan Ali Jamal, Mr. Mohamed Jasim al-Meraj, Mr. Hasan Abdulhadi Hajih, Mr. Mohammed al-Husaini, and Mr. Abdulla al-Husaini.**

According to the information received:

**The case of Mr. Hasan Al Attar**

Hasan Al Attar, born 24 June 1978, Kuwaiti citizen and an instructor at the Institute of Applied Studies, was arrested by Kuwaiti security agents in plain clothes on 18 August 2015. The house was searched and several items, including

two laptops, security camera, a briefcase and personal articles were seized. No arrest warrant or search warrant was presented.

Mr. Al Attar was transported to the national security building where he was tortured and ill-treated by security forces for 6 days, including by applying electric shocks to his body, beating with sticks, hanging from one hand for hours, depriving him of sleep, and when he was allowed to sleep, by blindfolding and handcuffing him and forcing him to sleep on a cold metal pipe. The security forces furthermore threatened to rape his female relatives. Mr. Al Attar fainted several times during this treatment. After 6 days, on 23 August 2015, Mr. Al Attar signed a false confession under duress.

On the same day, Mr. Al Attar was then transferred to the Central Prison. According to the information received, he has been denied access to a lawyer of his choice and has had no access to medical assistance to treat the wounds inflicted by security forces during the initial days of his detention. His family has been allowed to see Mr. Al Attar but is not aware of any charges against him.

At the time of sending this letter, Mr. Al Attar remains in detention at the central prison.

### **The case of Jassim Mohamed Ghadanfari**

Jassim Mohamed Ghadanfari, born on 2 November 1967, a Kuwaiti citizen, residing in the Al-Jabariya area of Kuwait was arrested on 13 August 2015 by Kuwaiti security forces. He was dragged into a car, where he was beaten. No arrest or search warrant was presented.

Mr. Ghadanfari was transported to the national security building, where he was subjected to torture and ill-treatment by Kuwaiti security forces, including using physical violence causing severe pain in his shoulders and knees, and threatened to rape him, his wife, and his daughter. Torture marks remained visible for a period of time on his body.

Mr. Ghadanfari was charged with contacting foreign countries to harm Kuwait and then transferred to the central prison, where he currently awaits trial.

Mr. Ghadanfari was cursorily examined by a medical doctor after his transfer to the central prison, but allegedly his wounds resulting from the ill-treatment were not documented and he has not received any treatment.

### **The case of Abdul Mohsen AlShatti**

Mr. Abdul Mohsen AlShatti, born on 22 August 1989, a Kuwaiti citizen residing in the Jaber Al Ali area of Kuwait, a geologist engineer, was arrested on 18 August 2015 by Kuwaiti national security agents on his way to his workplace on the Kuwaiti-Saudi border. Prior to his arrest, he sent his family a message saying that he had been subjected to a travel ban. The security forces also searched Mr. AlShatti's home several hours later and seized several electronic devices, currency, bank cards and his house keys. No arrest or search warrant was presented.

Mr. AlShatti was transported to the national security building where he remained for nine days. During this time, Mr. AlShatti was subjected to torture and ill-treatment, including electric shocks, hanging from the ceiling by one hand, beatings with sticks and fists, sleep deprivation and threats to rape his wife, sisters and mother. The security agents furthermore insulted his Shia religious beliefs.

Throughout this time, Mr. AlShatti was presented to the public prosecutor on several occasions who asked him to confess to the charges, what Mr. AlShatti denied several times. After nine days, Mr. AlShatti delivered a false confession.

Due to this treatment, Mr AlShatti suffered from a concussion, had burn marks and bruises all over his body, including his genitalia, at least one broken bone and has vomited blood. Despite being transported to the military hospital, Mr. AlShatti did not receive the necessary medical treatment.

Mr. AlShatti has been charged with communicating with a foreign country, possessing weapons, training on the use of weapons, and undermining the social and economic system – all charges being denied by Mr AlShatti. On 27 August 2015, he was transferred to the Central Prison. Marks from the abuse he suffered were still visible then.

After his transfer to the Central Prison, Mr. AlShatti was finally allowed to retain a lawyer. His lawyer requested a medical examination of his client, which was rejected by the public prosecutor until 45 days after Mr. AlShatti's arrest, at which time many of the inflicted wounds had healed. During the medical examination, the torture wounds were not documented.

At the time of sending this letter, Mr. AlShatti remained detained at the central prison.

### **The case of Hasan Ali Jamal**

Mr. Hasan Ali Jamal, born 13 March 1981, Kuwaiti citizen with Shia religion, residing in Al Jabiryia in Kuwait, was arrested by Kuwaiti security officers in plain clothes on 16 August 2015 while driving with his family in their car. The officers removed Mr. Jamal's wife and his three children from the car, and used their vehicle to drive to Mr. Jamal's house with him. On the way to his place, Mr. Jamal was severely beaten. No arrest or search warrant was presented.

Upon arrival at the house, the security officers subjected Mr. Jamal to electric shocks punches and kicks and also beat him with sticks. The security officers furthermore broke his personal and religious belongings in the house.

Then, Mr. Jamal was transported to the national security building where the security agents continued to torture and ill-treat him, including by punching him, hanging him alternately with one arm or leg from the ceiling, beating him with pipes and sticks, burning him with a device similar to an iron, caning the soles of his feet, depriving him of sleep and of using the toilet, and threatening to rape his wife and sisters. He was furthermore not allowed to pray while in detention.

Later, Mr. Jamal was taken into the open desert where security officers continued to mistreat him. He was also taken to the basement of the public prosecutor's office where he was subjected again to electric shocks. In the presence of the public prosecutor and under threats of further mistreatment, government agents forced Mr. Jamal to read a confession which was recorded.

He was then transferred to the Central Prison on 25 August 2015 where he remains detained.

The family is at present unaware of the charges against Mr. Jamal. According to reports received, he has not received medical treatment for the wounds he sustained while being tortured.

### **The case of Mr. Mohamed Jasim al-Meraj**

Mohamed Jasm al-Meraj, born 29 April 1984, Kuwaiti citizen, was arrested on 13 August 2015 by Kuwaiti state security forces who entered his house violently without waiting for the women to cover themselves. The arrest warrant presented was issued for a different person at a different address.

Mr. Al-Meraj was blindfolded, handcuffed and brought to the State Security detention centre. His family was not informed of his location. During his detention there, he was subjected to electrocution (after water had been poured over his body), severe beatings with iron and wooden bars and bats, kicking, sleep

deprivation for eight consecutive days, threats to physically assault his mother, siblings, wife and children, as well as forcing his pregnant wife to miscarry. The security forces insulted his family and religious sect.

Eventually, Mr. Al-Meraj signed a series of papers while blindfolded. He does not know what he signed but believes it is a false confession.

Mr. Al-Meraj suffered wounds and injuries, including the dislocation of his shoulder, wounds that required stitches, and swollen hands and feet that became infected. He was refused medical treatment. It is reported that, eventually, a government medical doctor examined Mr. Al-Meraj but did not treat his injuries and declared that he had not been tortured.

Mr. Al-Meraj was denied access to his lawyers until after he signed the papers under duress and was moved to the Central Prison. His attorney then filed a request for release with the public prosecutor, but the prosecutor denied the request.

Mr. Al-Meraj has not been charged with any crime. He remains in detention in the Central Prison.

#### **The case of Mr. Hasan Abdulhadi Hajih**

Mr. Hasan Abdulhadi Hajih, born 8 November 1968, Kuwaiti citizen, was arrested on 12 August 2015 at approximately 2:00 AM by Kuwaiti security forces associated with the Criminal Investigatory Directorate (CID), after threatening his children at gunpoint to tell them where Mr. Hajih was. An arrest warrant was presented but with incorrect information regarding the address.

Mr. Hajih was transported to the CID where he remained for two days. His family was not informed of his location. He was then transported to the State Security Centre where he remained for eight days. During his detention at these two locations, Mr. Hajih was subjected to torture and ill-treatment, including electrocution of his abdomen, back and genitals, hanging from his hands for hours at a time, jumping on his body, beating with an iron bar, denial of access to the toilet, food and water, as well as threats to rape his wife and children. The security forces furthermore insulted his family and sect.

Due to the pain inflicted upon him, Mr. Hajih eventually signed a false confession.

Mr. Hajih sustained severe injuries, including bone fractures, permanent curving of his spine and bruises all over his body as a consequence of the abuse he suffered. Despite a judicial order for access to a medical doctor, Mr. Hajih has reportedly not yet been examined or treated by a medical professional.

After 11 days, Mr. Hajih was transferred to the Central Prison where he remains detained. He has been charged with spying for a foreign country, establishing a terrorist cell, and possessing weapons.

He was denied access to a lawyer for the first 35 days of his detention.

### **The case of Mr. Mohammed al-Husaini**

Mr. Mohammed al-Husaini, born on 7 December 1980, Kuwaiti citizen, is a Shia cleric, the Imam of a Shia mosque, and teaches at a Shia seminary.

He was arrested on 13 August 2015 by Kuwaiti state security forces from his car in front of his house, and his house was searched. No arrest or search warrant was presented, nor did the security forces identify themselves or allowed Mr. Al-Husaini to contact his lawyer. During the arrest, security forces physically abused Mr. Al-Husaini's pregnant wife. On 16 August, security forces again came to the house and violently searched and vandalized it.

They forced him out of his car and violently arrested him. The security forces proceeded to violently search and vandalize Mohammed's house. They presented neither an arrest nor a search warrant. The forces did not identify themselves and did not provide Mohammed with an opportunity to contact his lawyer.

Mr. Al-Husaini was then transported to the State Security Detention Centre, where he remained for two weeks. His family was not provided with any information of his whereabouts. During his detention in this location, Mr. Al-Husaini was subjected to torture and ill-treatment by security forces, including by beatings, alternatively hanging from his hands and legs for long periods of time, sleep deprivation, electrocution, and threats of rape. In addition, security forces insulted his sect, did not allow him to pray in Shia way but forced him to pray in Sunni way.

At some point during his detention in the State Security Centre, Mr. Al-Husaini's brother Abdullah was brought in and tortured in front of him. Eventually, Mr. Al-Husaini signed a false confession, soon thereafter he was transferred to the Central Prison.

As a consequence of the abuse, Mr. Al-Husaini suffered from injuries which were reportedly not treated. Mr. Al-Husaini was brought before a forensic examiner who pressured him to deny that he was tortured. Mr. Al-Husaini refused to deny this and then refused to proceed with the examination.

Mr. Al-Husaini was charged with harming national unity, spying for Iran and Hezbollah, and training persons on the use of weapons. Mr. Al-Husaini's trial began on 15 September 2015 and is ongoing. He remains in detention in the Central Prison.

### **The case of Mr. Abdulla al-Husaini**

Mr. Abdulla al-Husaini, born on 9 February 1986, Kuwaiti citizen and brother of Mr. Mohammed al-Husaini was arrested on 16 August 2015 by Kuwaiti security forces associated with the Ministry of Interior outside of his home, who then also searched his house. No arrest or search warrant was presented.

Mr. Al-Husaini was transferred to the State Security Detention Centre where he remained for 3 weeks. His family was not provided with any information as to his whereabouts. During his detention there, he was subjected to torture and ill-treatment, including electrocution, kicking, sleep deprivation and threats to rape him. Sometimes, he was tortured in front of his brother, Mr. Mohammed al-Husaini (see above). Mr Abdulla Al-Husaini signed a false confession under duress. He was then transferred to the Central Prison.

Mr. Al-Husaini suffered from injuries including bone fractures, extensive bruising, painful headaches and inflammation of his bladder.

Following his complaint regarding the abuse he suffered, he was sent for a forensic examination which however was very superficial and only lasted approximately five minutes. He was then pressured to sign a statement saying he had not been tortured. Mr. Al-Husaini refused.

Mr. Al-Husaini was refused the right to contact or retain a lawyer of his choice for at least one month after his arrest.

He was charged with aiding and abetting terrorism and his trial is ongoing. Mr. Al-Husaini was released from detention on 29 September 2015.

Grave concerns are expressed at the allegations of arbitrary arrest and detention, torture and ill-treatment, including forced confessions, denial of access to adequate medical treatment, and religious intolerance, including the denial (for at least two of the

individuals) to religious practice in detention, of the eight Kuwaiti citizens, all belonging to the Shia Muslim minority, mentioned above.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

Notably, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Kuwait acceded in 1996. We would furthermore like to draw the attention of your Excellency's Government to article 15 of the CAT which prohibits the use of information obtained under torture as evidence in any proceedings. The UN Guidelines on the Role of Prosecutors also provide that when prosecutors come into possession of evidence that was obtained through the recourse to unlawful methods, they shall refuse to use such evidence (see guideline 16). We would furthermore refer to paragraph 27 of General Assembly Resolution 68/156, which reminds states that prolonged incommunicado detention 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.

Without expressing at this stage an opinion whether the deprivation of liberty of the 8 above-mentioned individuals is arbitrary or not, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of one's liberty as set forth in article 9 of the International Covenant on Civil and Political Rights (ICCPR) and article 9 of the Universal Declaration of Human Rights (UDHR), as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 14 of the ICCPR and article 10 of the UDHR . The right to have access to a lawyer of one's choice is also enshrined in the UN Basic Principles on the Role of Lawyers.

Article 18 of the ICCPR and UDHR provide for the right to freedom of thought, conscience and religion. Even in the case of persons deprived of their liberty, they should not be deprived of their right to perform prayers in accordance to their religion or belief. Paragraph 8 of Human Rights Committee General Comment 22 further stresses that persons already subject to certain legitimate constraints should continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint.

Regarding allegations received that most of the cases mentioned above did not receive adequate medical treatment while in detention for injuries sustained as a result of torture, including the role of medical personnel, we would like to refer your Excellency's Government to article 12 of the Covenant on Economic, Social and Cultural Rights, ratified by Kuwait in May 1996, which establishes States' obligation to respect the right



to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services. In addition, we would like to refer to The Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111, according to which prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (Basic Principles for the Treatment of Prisoners, Principle 9).

Moreover, we deem it pertinent to refer to the UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution 37/194 of 18 December 1982. Principle 2 establishes that it is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 people in compliance with international instruments.

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 be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of the eight individuals mentioned above, all belonging to the Shia Muslim minority, and explain how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please provide information relative to the measures taken to ensure the physical and psychological integrity of the above named individuals, including their access to adequate medical treatment and services and their right to perform prayers in accordance to their religion or belief.
4. Please outline any measures taken to ensure the investigation into the allegations of torture, ill-treatment and confession extracted under torture and

punishment of responsible officers, and provide information on steps taken to prevent similar violations from reoccurring in the future.

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 person responsible of 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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