

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; 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, 27/1, 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 alleged arbitrary arrest, detention and torture of Mr. **Mohammed Abbas Kadhim al Sudani** (محمد عباس كاظم السوداني). Mr. Mohammed al Sudani (born on 1 March 1986, ID no. 01029922) is an Iraqi intelligence agent of the federal police in Mosul.

According to the information received:

On 20 November 2014, at approximately 2:00am, Mr. Mohammed Abbas Kadhim al Sudani and two of his brothers were arrested at their home in the Al Wahda neighbourhood in Baghdad by 15 members of the Special Weapons and Tactic (SWAT) force, a group from Special Forces headed by the Counter-Terrorism service. It is reported that during the arrest, members of Mr. Mohammed al Sudani's family, in particular his mother, sisters and children, were mistreated and beaten by elements of the SWAT force.

Mr. Mohammed al Sudani's and his brothers' arrest was reportedly due to the fact that they had been searching for another brother, Mr. Mustafa al Sudani, whose

fate and whereabouts have been unknown since he was arrested on 9 June 2014. In their search, the three brothers had been in contact with a person who was known to negotiate with tribes involved in abductions at the time of the disappearance of Mr. Mustafa al Sudani. That person is alleged to have spread false accusations against the three brothers, including to the Iraqi authorities, after they had refused to pay him to obtain information about Mr. Mustafa al Sudani.

While his two brothers were subsequently released, Mr. Mohammed al Sudani was detained incommunicado at Al Muthanna Airport detention centre in Baghdad, which is allegedly a well-known secret detention centre where detainees are routinely tortured, until 20 January 2015 when he was transferred to Taji prison. He was transferred back to Al Muthanna Airport detention centre in Baghdad on 25 April 2015 until 4 May when he was transferred again to Taji prison. His family was not informed of his fate and whereabouts and submitted a complaint to the police station of the Al Khalesa neighbourhood in Baghdad to no avail.

On 4 May 2015, his mother received a phone call from the authorities, informing her that her son was in Taji prison. On 5 May 2015, she visited him in Taji Prison. She visited him again on 24 May 2015, but was reportedly told by prison guards not to come anymore.

Mr. Mohammed al Sudani was reportedly tortured both times he was detained at Al Muthanna Airport detention centre. He was beaten with an iron wire on different areas of his body. [REDACTED]

[REDACTED] These acts of torture were allegedly carried out by members of the 54th Brigade of the Iraqi Army (which is under Baghdad Operation Command, a unit that is in turn under the operational and administrative control of the Ministry of Defence), with the aim of forcing him to confess to having killed his father as well kidnapped and killed various other individuals. Mr. Mohammed al Sudani was coerced to sign documents while blindfolded. He reportedly received basic medical care for the injuries he sustained from the torture. His mother is said to have seen clear signs of torture on her son's body. The medical treatment received so far was allegedly not sufficient and Mr. Mohammed al Sudani's health condition is deteriorating.

During the first six months of his detention, Mr. Mohammed al Sudani did not have access to a lawyer. His family has now been able to contact a lawyer who has agreed to represent him, but the formal appointment has reportedly not been finalized yet. Mr. Mohammed al Sudani remains in detention in Taji prison, awaiting trial before the Al Saa Court (the Central Criminal Court of Iraq that has jurisdiction over cases of terrorism). The Al Saa Court is reportedly known for failing short of international standards regarding fair trial and due process,

including by often relying on confessions extracted under torture. Mr. Mohammed al Sudani has yet to be informed of the charges against him. He was so far not brought before a judge.

Grave concern is expressed about the physical and psychological integrity of Mr. Mohammed al Sudani, in particular as he was allegedly subjected to torture and ill-treatment. Further concern is expressed about his alleged arbitrary arrest and detention, as well as the temporary enforced disappearance to which he was subjected. Additional concern is expressed regarding the possibility of the use of evidence obtained by torture in his forthcoming trial. Serious concern is also expressed that, to date, Mr. Mustafa al Sudani's fate and whereabouts remain unknown.

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.

With regard to the allegation that the arrest, arbitrary detention, and torture of Mr. Mohammed Abbas Kadhim al Sudani is a consequence of his attempts to find his disappeared brother, we would like to bring to your Excellency's Government's attention the rights and obligations set out in articles 13 (1), 13 (3) and 13 (5) of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance.

The above-mentioned allegations also appear to be in contravention with the absolute and non-derogable prohibition of torture and other ill-treatment and Mr. Mohammed al Sudani's right not to be arbitrarily deprived of his liberty and right to fair proceedings before an independent and impartial tribunal, as set forth in articles 5, 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 7, 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Iraq in 1971. In particular, the right of all arrested, detained or imprisoned persons to have prompt and adequate access to a lawyer is also enshrined in the Basic Principles on the Role of Lawyers.

Further, prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment. Article 15 of the Convention against Torture, acceded to on 7 July 2011, provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

The full texts of the human rights instruments and standards recalled above are available on 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 person in compliance with international instruments.

As 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 comment which you may have on the above mentioned allegations.
2. Please provide detailed information concerning the legal grounds for the arrest and detention of Mr. Mohammed Al Sudani and explain how these measures are compatible with international norms and standards enshrined in the UDHR and the ICCPR, inter alia.
3. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. Mohammed Al Sudani while he remains in detention; please indicate in particular whether he has access to adequate medical care and his lawyer.
4. Please provide detailed information and, where available, the results of any investigation, judicial or other inquiries carried out in relation to the above mentioned allegations of torture, including information on any penal, disciplinary or administrative sanctions against responsible officers. If no inquiries have taken place, or if they have been inconclusive, please explain why.

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.

Seong-Phil Hong
Chair-Rapporteur of the Working Group on Arbitrary Detention

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

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

