

Mandates of the Working Group on Arbitrary Detention; Independent Expert on the promotion of a democratic and equitable international order and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: AL
IRQ 3/2014:

6 August 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Independent Expert on the promotion of a democratic and equitable international order and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 24/7, 18/6 and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government updated information we have received concerning **the investigation into the attacks against residents of the Camp New Iraq (formerly, Camp Ashraf) and Camp Hurriya (Camp Liberty) in 2009, 2011 and 2013** and the continued vulnerability of this population to the risk of further attacks.

We recall that the attacks of 28-29 July 2009 were the subject of a joint communication sent to your Excellency's Government by a group of three United Nations independent experts on 1 October 2009. These and the new attack which occurred on 8 April 2011 on Camp New Iraq were the subject of another joint communication sent to your Excellency's government by three United Nations independent expert mechanisms on 15 April 2011. A reply from your Excellency's Government was received on 14 October 2009 in relation to the first of these attacks. The 8 April 2011 attack was the subject of a further communication by a group of 3 Special Rapporteurs on 9 May 2011. No response was received from your Excellency's Government.

We also recall that the 1 September 2013 assault against the residents of Camp New Iraq was the subject of a communication sent to your Excellency's Government on 11 September 2013 by five United Nations independent expert mechanisms. We thank your Excellency's Government for the response provided on 11 November 2013 informing that a committee had been set up under the authority of the Minister of Interior and the supervision of UNAMI, to investigate the attack and that the case was also before a competent investigating judge.

According to further information received:

Regarding the 1 September 2013 attack on Camp New Iraq, there is no available information concerning the proceedings and results of the investigations of the police committee, nor has the outcome of such queries been made public. In addition, thus far none of the perpetrators of this attack have been identified and brought to justice.

We understand that for the most part, the residents declined to cooperate with the investigation committee and have expressed fear that some of the evidence could be tampered with. It has also been alleged that individuals suspected of having participated in the attack, and who belong to the local police, were appointed to the investigation committee.

There is no available information concerning the whereabouts of the seven residents that were allegedly abducted during the attack (Ms. Mahnaz Azizi, protected person card No. 6CA79403; Ms. Vajihe Karbalaey, protected person card No. FDC3603E; Ms. Fatehma Sakhie, protected person card No. A9063642; Ms. Fatemah Tahoori, protected person card No. 4FCDF211; Ms. Lila Nabahat, protected person card No. C66426AF; Ms. Zahra Ramezany, protected person card No. 3061FF10; and Mr. Mohammad Ratebi, protected person card No. 674E093D). The Working Group on Enforced or Involuntary Disappearances has also taken up these cases (para. 76, A/HRC/WGEID/101/1), which remain outstanding before it.

Similarly, no investigation appears to have been carried out in connection with the previous attacks on 28-29 July 2009 and 8 April 2011 against the residents of Camp New Iraq, and no one is known to have been brought to justice. Moreover, the Government of Iraq has also failed to investigate or bring to justice anyone responsible for the attacks of 9 February 2013 (8 persons killed and dozens injured), 15 June 2013 (2 persons killed, dozens injured) and 26 December 2013 (4 persons killed and dozens injured) against the residents of Camp New Iraq who had been transferred to Camp Hurriya.

Without prejudging the accuracy of the information made available to us, we reiterate our concern that investigations into the attacks of 1 September 2013 appear to fall short of basic standards and principles of independence and impartiality, and have remained inconclusive. Our serious concern extends to the five previous attacks against that community, none of which has been properly investigated, and for which no one has been brought to account. We are further concerned that the whereabouts of the seven persons abducted during the 1 September 2013 attack remain unknown.

The past 6 attacks against that community, the lack of proper investigations and of effective measures to protect its members, heightens our concern about its vulnerability to further attacks, especially in the context of the recent upsurge in fighting in the country including in areas close to the camp.

We thus respectfully urge your Excellency's Government to step up its efforts to investigate all past attacks, to bring to justice anyone found to have been responsible for these acts, and to take effective measures to ensure the safety of the residents of Camp Hurriya and ensure that they are treated in accordance with international human rights standards. Under international law, Iraq has the legal obligation to ensure the right to life to all persons living in the country and to effectively punish those responsible for violations of this right. Severe crimes of the nature of those referred above, and the impunity that has accompanied them, entail violations of numerous international treaty provisions.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

Since it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify the facts in 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 detailed information about the composition, procedures and status of the police and judicial investigations into the 1 September 2013 attacks, as well as any conclusion thus far reached, and how they were conducted in compliance with international standards. Please provide information on whether any decisions have been made in connection with these investigations.
3. Please provide information of any investigations carried out in connection with the five previous attacks against this community. If no investigation has been conducted into these attacks, please explain why.
4. Please provide information or details of any investigations carried out in connection with the situation of the seven abducted persons.
5. Please provide detailed information about the measures taken to effectively protect, and ensure the safety of, residents of Camp Hurriya.

We would appreciate a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt further similar acts and prevent their re-occurrence and 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.

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

Alfred De Zayas
Independent Expert on the promotion of a democratic and equitable international order

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex

Reference to international human rights law

In connection with the concerns expressed in this letter, the following international human rights standards appear to be relevant:

Articles 3 and 6 (1) of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) ratified by Iraq on 25 January 1971, guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life.

The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) recall States' duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions and the obligation to bring to justice all persons identified by the investigation as having participated in those executions. They also provide for the effective protection through judicial or other means of individuals and groups who are in danger of extra-legal, arbitrary or summary executions. The families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

With regard to the allegations that Iraqi police elements may have participated in the 1 September attacks, General Comment No. 6, the Human Rights Committee stated that States parties should take measures to prevent arbitrary killing by their own security forces and recalled that the deprivation of life by the authorities of the State is a matter of the utmost gravity.

In light of the heightened vulnerability of the residents of Camp Hurriya, we would like to draw attention to the Opinion adopted by the Working Group on Arbitrary Detention which requested that your Excellency's Government "consider alternatives to the detention of persons in Camps Ashraf and Liberty" (Opinion No. 32/2012 (Iraq), para. 39). We would also like to draw your Excellency's Government attention to the Opinion adopted by the Working Group on Camps Ashraf and Liberty recalling that the Working Group found that "the situation of residents of Camp Liberty is tantamount to that of detainees or prisoners" (Opinion No. 16/2012, para. 16).

We also wish to bring to the attention of your Excellency's Government resolution 25/15 of the Human Rights Council which "reaffirme[d] that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized" (PP 5). We also wish to refer to preambular paragraph 6 of the aforementioned resolution which reaffirmed "[...] the determination expressed in the Preamble to the Charter to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can

be maintained, to promote social progress and better standards of life in larger freedom, to practice tolerance and good neighbourliness”.