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PROCEDURES SPECIALES DU
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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 Working Group on the issue of discrimination against women in law and in practice; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and of the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: UA G/SO 218/2 G/SO 214 (33-27) G/SO 214 (53-24) G/SO 214 (89-15)
IRQ 4/2013

11 September 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 15/18, 23/7, 17/5, 16/23, and 23/25.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the attack on 1 September 2013 against the residents of the Camp Ashraf, Republic of Iraq, which resulted in the killing of 52 individuals, as well as the abduction of seven persons who reportedly risk imminent extradition to the Islamic Republic of Iran.

According to the information received:

On 1 September 2013, at approximately 05:00 a.m., the current residents in the Camp Ashraf were subjected to a violent attack. While the facts are still being established, there are allegations that the attack might have been perpetrated by the Iraqi security forces, namely by the members of the so-called "Golden Division".

Reportedly, 52 individuals were killed during the attack and others were injured. It is alleged that the persons killed did not manifest any signs of aggression. All of them reportedly died as a consequence of gunshot wounds, mainly in the head and

upper body. A number of the killed persons had their hands tied before. Some of the persons were allegedly fatally shot while fleeing or seeking medical assistance after having been wounded. Pictures and video footages reportedly depict individuals killed by gunshot in the head and upper body, including killed persons with their hands tied.

The residents who were reportedly killed are: **Mr. Hossein Soltani, Mr. Amir-Hossein Afzal-Nia, Mr. Bijun Mirza'i, Mr. Nasser Kermanian, Mr. Amir Nazari, Ms. Zohreh Ghaemi, Ms. Guiti Giveltchian, Ms. Mitra Bagherzadeh, Ms. Jila Tolou, Ms. Fatemeh Kamyab, Ms. Maryam Hosseini, Mr. Majid Shivyari, Ms. Azim Naroui, Mr. Rahman Manani, Mr. Hassan Jabari, Mr. Saïd Akhavan, Mr. Hossein Rassouli, Mr. Nasser Habachi, Mr. Ali Asghar Mechanik, Mr. Ali Mahmoudi, Mr. Ibrahim Assadi, Mr. Mehdi Fatollah Nejad, Mr. Alireza Khooshnevis, Mr. Mohmoud Reza Safavi, Mr. Asghar Emadi, Mr. Chahram Yasseri, Mr. Saïd Norassi, Mr. Seyed Ali Seyed Ahmadi, Mr. Cyrus Fathi, Mr. Heydar Garmabi, Mr. Kourosch Saïdi, Mr. Ali Fayz Chabangahi, Mr. Hamid Saberi, Mr. Nabi Saif, Mr. Hadi Nakh-Jiri, Mr. Shahrokh Ohadi, Mr. Ali- Asghar Ghadiri, Mr. Shoja Motevali, Mr. Meghdad Jafar-zadeh, Mr. Mohammad Gorji, Mr. Ghasem Rezvani, Mr. Ahmad Boostani, Mr. Hossein Madani, Mr. Naser Sarabi, Mr. Ghobad Saïd-Pour, Mr. Yaser Hajian, Mr. Pour-Mohammadi, Mr. Ardeshir Sharifian, Mr. Ahmad Voshagh, Mr. Fariborz Sheikh-ol-islam, Mr. Hamid Batebi , and Mr. Hassan Gholam-Pour.**

In addition, seven residents of the camp, six of them women, were reportedly abducted during the attack. According to reports, their names are: **Ms. Mahnaz Azizi, Ms. Vajihe Karbalaey, Ms. Fatehma Sakhie, Ms. Fatemeh Tahoori, Ms. Lila Nabahat, Ms. Zahra Ramezany, and Mr. Mohammad Ratebi.**

It is alleged that the seven persons abducted were held by the Iraqi security forces in an area in the proximity of the Baghdad airport, transferred by helicopters from Baghdad to al-Amara on 10 September 2013, and are at risk of imminent extradition to the Islamic Republic of Iran. Reportedly, the seven individuals are asylum seekers, enjoying the status of protected persons under the Fourth Geneva Convention.

Information was also received that the 42 residents, who are still in the Camp Ashraf, have been threatened with a new attack.

In light of the information received, we are gravely concerned about the reported killings, injuries and abductions that might have occurred as a consequence of the attack against the residents of the Camp Ashraf on 1 September 2013. Serious concern is expressed about the life and security of the remaining 42 residents, as well as of the seven individuals who were allegedly abducted and are at risk of imminent extradition to the Islamic Republic of Iran.

While we do not wish to prejudge the accuracy of the allegations received, we would like to appeal to your Excellency's Government to take all necessary measures to ensure the life and security of the remaining 42 residents in the Camp Ashraf. We also call on your Excellency's Government to ensure the life and security of the seven individuals abducted and prevent their alleged extradition to the Islamic Republic of Iran. We take also note of the statements reportedly made by the Iraqi authorities on the launch of an investigation on the incident.

In this regard, we wish to draw the attention of your Excellency's Government to the principles set forth in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) ratified by Iraq on 25 January 1971. Articles 3 and 6 (1) of these instruments respectively 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.

Furthermore, we would also like to refer to the principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) which underlines that "there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances (...)". Moreover, principle 18 underlines that "Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice. Governments shall either bring such persons to justice or cooperate to extradite any such persons to other countries wishing to exercise jurisdiction. This principle shall apply irrespective of who and where the perpetrators or the victims are, their nationalities or where the offence was committed." We wish to recall also that 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 pursuant to principle 20.

We would like to further stress that Principle 4 stipulates that effective protection through judicial or other means shall be guaranteed to individuals and groups who are in danger of extra-legal, arbitrary or summary executions.

With regard to the allegations that the attack might have been perpetrated by the Iraqi security forces, we wish to recall that in its General Comment on article 6, the Human Rights Committee stated that "The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity." (HRI/GEN/1/Rev.9, Vol. I, p. 177, para. 3).

Regarding the seven persons abducted and at risk of imminent extradition to the Islamic Republic of Iran, we would like to draw the attention of your Excellency's Government to article 3 of the Convention against Torture, which provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement." We would also like to draw the attention of your Excellency's Government to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly which urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement." Furthermore, paragraph 7d of Human Rights Council Resolution 16/23 urges States "(n)ot to expel, return (refouler), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, [...]."

We would also like to draw your Excellency's Government's attention to paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which stated that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture;"

Grave concern is also expressed that six of the seven persons abducted and at risk of imminent extradition to the Islamic Republic of Iran are women. In this regard, we would like to bring to your Excellency's attention article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

We also wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-

based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency's Government on 13 August 1986), whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation; in paragraph 9, it makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

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 persons 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 summary of the case accurate?
2. Have the victims or the families of the victims filed a complaint?
3. Please confirm that an investigation has been opened. If so, please provide the details, and where available the results of any medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. Please also provide information on the investigations carried out on the alleged involvement of the Iraqi security forces in this attack.
4. Please provide details on the information regarding the abduction of the seven residents and the measures undertaken to ensure their life and security, as well as prevent their alleged extradition to the Islamic Republic of Iran.
5. Please provide details on the measures taken to ensure the safety of those individuals remaining at Camp Ashraf.
6. Please indicate whether compensation will be provided to the victims or their families.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons 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.

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frances Raday
Chairperson-Rapporteur of the Working Group on the issue of discrimination
against women in law and in practice

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