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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
and the Special Rapporteur on the independence of judges and lawyers.

REFERENCE: UA G/SO 214 (3-3-16) G/SO 214 (53-24)
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6 January 2012

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the independence of judges and lawyers and pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/23 and 17/2.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the sentence to amputation of the hands and feet of Messrs. **Amir 'Iyada, B, C, D, E, and F** in violation of their right to a fair trial.

According to the information received:

On 24 December 2011, the Supreme Court of Saudi Arabia upheld the verdict of amputation of the hands and feet of Messrs. Amir 'Iyada, B, C, D, E, and F, all stateless persons originally from Iraq or Syria, for armed robbery. Reportedly, once the King approves the sentence, the aforementioned individuals will be at imminent risk of amputation.

According to the source, the aforementioned individuals were tried in two court sessions on 28 February 2011 and 29 March 2011 respectively, each lasting less than one hour. Reportedly, the judge did not allow any of the defendants to speak during the court sessions. They were allegedly prohibited from having the assistance of lawyers for their defence. In addition, although there was reportedly only one judge present in the court sessions, the verdict issued on 29 March 2011 bears the signatures of two other judges.

According to the information received, in October 2010, during his 10 days detention at the criminal investigation department in Riyadh, Mr. 'Iyada was tortured by four officers to sign a prepared confession. Allegedly, they beat Mr. 'Iyada with hands, electrical cables, and sticks all over his body, for hours every day. It is reported that the judge authenticated the confession without enquiring about the visible torture marks on Mr. 'Iyada's face. Reportedly, Mr. 'Iyada went on hunger strike for seven days to demand that he be allowed to recant. However, no investigation into allegations of torture has taken place.

Mr. 'Iyada was allegedly held in solitary confinement in a one meter by one meter cell for 33 days when he was detained in Malaz prison. He was reportedly denied medical treatment during his detention in solitary confinement.

Grave concern is expressed about the sentence to amputation of the hands and feet of Messrs. Amir 'Iyada, B, C, D, E, and F. Concern is also expressed about the physical and mental integrity of Mr. Amir 'Iyada and about allegations that Mr. Amir 'Iyada has been subjected to torture and ill-treatment while in detention. Moreover, deep concern is expressed that the trial of the aforementioned individuals did not comply with international legal standards and that they were not allowed to have the assistance of a lawyer for their defence.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

With regard to the alleged sentence to amputation of hands and feet of Messrs. Amir 'Iyada, B, C, D, E, and F, we would like to appeal to your Excellency's Government to the conclusions and recommendations of the Committee against Torture on Saudi Arabia, where the Committee expresses concern about "(t)he sentencing to, and imposition of, corporal punishments by judicial and administrative authorities, including, in particular, flogging and amputation of limbs, that are not in conformity with the Convention." (CAT/C/CR728/5).

Regarding the allegation that Mr. 'Iyada was tortured by four officers to sign a prepared confession, we would like to draw the attention of your Excellency's Government to article 15 of the CAT, which 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."

We also recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States "To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;"

With respect to the allegation that Mr. 'Iyada was held in solitary confinement for 33 days, we would like to draw the attention of your Excellency's Government to paragraph 6 of General Comment No. 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights (ICCPR) (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, we would also like to draw your Excellency's Government's attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged" (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

Regarding the alleged denial of medical treatment to Mr. 'Iyada while he was held in solitary confinement, we would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "(s)ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers. Furthermore, rule 25(1) provides that, "(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed" (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977).

We would like to draw the attention of your Excellency's Government to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has

been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture.

We would also like to draw your Excellency's Government's attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States "(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture."

Concerning the alleged violation of the defendants' right to a fair trial and in particular the defendants' alleged lack of access to a lawyer to assist them in their defence, we wish to stress that under article 10 of the UDHR, "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him." The right to be assisted by a lawyer is a fundamental element of the right to a fair trial and is also set forth in the Basic Principles on the Role of Lawyers (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). In particular, principle 1 stipulates that "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings."

With regard to alleged irregularity in the verdict, we wish to underline that judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary. In this respect, we wish to draw the attention of your Excellency's Government to the Bangalore Principles on Judicial Conduct, adopted in The Hague at the Round Table Meeting of Chief Justices held at the Peace Palace on 26 November 2002. According to its principle 1.6., "A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary, which is fundamental to the maintenance of judicial independence."

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 would respectfully appeal to your Excellency's Government not to carry out

the sentence of amputation and to commute this sentence. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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 above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

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.

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

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

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers