

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA IRQ 3/2018

2 October 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 36/6, 34/18, 34/5 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of unlawful arrest, enforced disappearance and torture against Mr. **Imad Al Tamimi** (عماد التميمي) and acts of intimidation and threats against Ms. **Israa Al Dujaili** (إسراء الدجيلي), two human rights defenders, in direct retaliation for their legitimate human rights work. Such acts have also been reported as acts of reprisals for their cooperation with United Nations, its representatives and mechanisms in the field of human rights.

Mr. **Imad Al Tamimi** and Ms. **Israa Al Dujaili** are both occasional volunteers for the non-governmental human rights organisation, **Al Wissam Humanitarian Assembly**, which documents cases of enforced disappearances in Iraq for their submission to the United Nations human rights mechanisms.

According to the information received:

Unlawful arrest, enforced disappearance and torture of Mr. Al Tamimi

On 14 July 2018, Mr. Al Tamimi participated in a peaceful demonstration held on Mutanabbi Street in Baghdad in solidarity with the demonstrators in the Basra governorate who denounced corruption and chronic mismanagement. Later during the day, he was abducted by members of the Special Weapons and Tactics Unit (SWAT), in the vicinity of the "Medical City" in Baghdad. He was forced into a black pick-up truck and taken to an unknown location for interrogation. He was reportedly subjected to acts of torture for the first two weeks of his detention.

Methods used included severe beatings all over his body and repeated electric shocks on his limbs.

He was questioned about his involvement with Al Wissam Humanitarian Assembly and on his relationship with its founder, Mr. Salam Al Hashimi. Mr. Al Tamimi was also questioned about “Jurf Sakhar”, a secret detention facility operated by the Hezbollah Brigades, and whether he knew some of the persons being detained there. He was finally forced to sign a document stating that he would no longer participate in any event related to enforced disappearance in Iraq, and that if he failed to do so, he would be re-arrested along with his brothers.

He remained secretly detained, until 7 September 2018, when he was finally released. On that day, he was transferred, while blindfolded, towards Aden Square, where he was released.

Intimidation and threats against Ms. Al Dujaili and employees of Al Wissam Humanitarian Assembly

On 27 August 2018, Ms. Al Dujaili went to a copy shop located in the Al Saadoun neighborhood near Al Nasser Square in Baghdad to collect posters advertising events organized by Al Wissam Humanitarian Assembly on the occasion of the 2018 International Day of the Victims of Enforced Disappearances, including a demonstration scheduled to be held on 30 August 2018. After leaving the shop, a group of men stopped and questioned her about the posters she had with her. She was verbally assaulted and threatened her in connection to her participation in these events. After the incident, Ms. Dujaili decided to find refuge in another place for fear of retaliation.

It is reported that those who intimidated and threatened Ms. Al Dujaili’s were connected to the Iraqi National Intelligence Service (INIS) as the Ministry of Interior issued a circular ordering all copy shops to inform about any printed materials deemed critical of the authorities in the context of the ongoing social unrest.

Other employees and volunteers of Al Wissam Humanitarian Assembly have previously been subjected to acts of intimidation and reprisal for their cooperation with the United Nations, its representatives and mechanisms in the field of human rights. Their cooperation relates specifically to the submission of cases and information to the Committee on Enforced Disappearances and to the Working Group on Enforced or Involuntary Disappearances, and due to the reprisals faced some have decided to leave the country out of fear for their security. We wrote to the Government to raise concern about these allegations (IRQ 1/2016 and IRQ 2/2018) but regret that to date no response has thus far been received.

We express our grave concerns about these allegations. Our concerns in this case are heightened by the fact that these acts of violence might be in reprisal for their cooperation with the United Nations, its representatives and mechanisms in the field of human rights. This is against the background of what appear to be a pattern of acts of intimidation and reprisals against other human rights defenders working for the Al Wissam Humanitarian Assembly in relation to their cooperation with the United Nations human rights mechanisms.

In this regard, we would like to refer to the International Covenant on Civil and Political Rights (ICCPR), ratified by Iraq on 25 Jan 1971, which guarantees the rights not to be tortured (Article 7), liberty and security (Art. 9) and the right of persons deprived of their liberty to be treated with dignity (Art. 10), the right to freedom of opinion and expression (Art. 19) and the right to freedom of association (Art. 21).

We also refer to the right to form and participate freely in organizations and associations concerned with efforts to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance as codified in article 24.7 of the Convention for the Protection of All Persons from Enforced Disappearance (CED), which Iraq acceded to on 23 November 2010.

The absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 7 of the ICCPR and articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Iraq ratified on 7 July 2011.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular Articles 1, 2, 5, 6, 9, 12 and 17. We also refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearances establishes that steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal (Art. 13.3) and also to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished (Art. 13.5).

With respect to the allegations of what appear to be acts of reprisal, we would like to refer to Human Rights Council resolutions 36/21 and 24/24 which call on States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its mechanism and representatives in the field of human rights; and to take all appropriate measures to prevent the occurrence of intimidation or reprisals, including, where necessary, by adopting and consequently implementing specific legislation and policies and by issuing appropriate guidance to national authorities in order to effectively protect those who seek to cooperate, cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights from any act of intimidation or reprisal, and to investigate allegations of intimidations or reprisals, to ensure accountability and to bring perpetrators to justice. We would also like to refer to Human Rights Council resolution 22/6, which provides for the right to “unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanisms and the treaty bodies, as well as regional human rights mechanisms”.

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 persons 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 you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Al Tamimi and how these are compatible with Iraq’s international human rights obligations under the ICCPR and the CED.
3. Please clarify why Mr. Tamimi was detained incommunicado in what appears to be a secret place of detention manned by the SWAT security forces. Is this place listed among official places of detention under the responsibility of the Government? What is the legal authority of the SWAT units to arrest and detain individuals? Who do these units answer and are accountable to? How this is compatible with Iraq’s human rights commitments under its international legal obligations?

4. Please provide information about whether any investigation and judicial or other inquiry has been undertaken in relation to the allegations that Mr. Al Tamimi was tortured or otherwise severely ill-treated while incommunicado detained by SWAT forces. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information on the measures in place to ensure that organizations concerned with attempting to establish the circumstances of enforced disappearances, the fate of disappeared persons and to assist victims of enforced disappearances can carry out their work in a safe and enabling environment without fear of threats, acts of intimidation or reprisals of any kind.
6. Regarding reported acts of intimidation and reprisals for cooperation with the UN in the field of human rights, please indicate what measures have been taken to ensure that human rights defenders in Iraq are able to carry out their legitimate work, including documenting and reporting on enforced disappearances to the UN human rights mechanisms in a safe and enabling environment without fear of intimidation or reprisals of any kind.
7. Please indicate measures taken to investigate allegations of intimidation or reprisal and to bring perpetrators to justice, in accordance with Human Rights Council resolution 36/21. If no such investigation has taken place, please explain why. Please also provide information about measures taken to prevent the occurrence of acts of intimidation or reprisal, including where necessary, by adopting and implementing specific legislation and policies in order to effectively protect those who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights from any act of intimidation or reprisal.

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.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

In light of the allegations of reprisals for cooperation with the UN on human rights in relation to Mr. **Imad Al Tamimi** and Ms. **Israa Al Dujaili**, we reserve the right to share this communication – and any response received from the Government of Iraq - with other UN bodies or representatives addressing intimidation and reprisals for cooperation with the UN in the field of human rights, in particular the senior United Nations official appointed by the Secretary general to as senior official to lead the efforts within the UN system to address [intimidation and reprisals](#) against those cooperating with the UN on human rights..

We are considering to publicly express our concerns in the near future as in our view, the information upon which our concerns are based appears to be sufficiently reliable to indicate a matter warranting serious attention. We also believe that should these allegations be confirmed, the wider public should be alerted to their potential human rights implications. Any public expression of concern on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

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.

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Bernard Duhaime
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment