

**Mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL IRQ 2/2019

29 March 2019

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolution 34/19.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the alleged torture and ill-treatment of Dr. Adil Ali Abdul-Hassan Al-Fregi and Dr. Ahmed Yahya Issa Rubaye, who are Iraqi citizens and Assistant Professors in the Department of Chemistry, College of Science, University of Basra.

According to the information received:

On 12 March 2018, Dr. Al-Fregi and Dr. Rubaye were arrested and detained by Intelligence Services for uncovering and reporting corrupt practices within the department to the President of the University of Basra. Dr. Al-Fregi and Dr. Rubaye were taken to a Security Prison located inside Police Headquarters (Major Crimes Unit) in Basra.

Dr. Al-Fregi and Dr. Rubaye allege they were detained together in a 1 metre by 1 metre room and could not sit down for 3 days. They allege that during their detention the prison authorities chained and hung them up by the ceiling so they could not touch the floor for two hours at a time. Nylon bags were put on their heads for up to 3 minutes at a time to produce the effect of suffocation. They further allege the prison authorities electrocuted them and beat them on the legs with tubes and a wooden plank.

Dr. Adil Al-Fregi reportedly suffered numerous injuries, including a fractured and dislocated shoulder, bruises to his chest, back, neck, arms and legs, scars from electrocution, damage to his kidneys and bleeding in the urinary tract, and partial visual impairment. Dr. Ahmed Rubaye reportedly suffered similar injuries, including permanent paralysis in half of his face.

Dr. Al-Fregi was released without charges on 28 March 2018 and Dr. Rubaye was released without charges on 7 April 2018.

Following their release, Dr. Al-Fregi and Dr. Rubaye filed a complaint of torture and ill-treatment on 12 April 2018 with the Human Rights Office in the Government Office in Basra. On 20 May 2018, they filed a formal complaint to

the Ministry of Interior. They were sent to a government hospital which documented their respective injuries in a medical report.

To date, the doctors have received neither a reply nor confirmation from the Government that an investigation has been undertaken.

While I do not prejudge the accuracy of the information received, I urge your Excellency's Government to seek clarification of the circumstances regarding the case of the persons named above. I would like to stress that each Government has the obligation to respect and ensure the right to physical and mental integrity of all persons and, in particular, the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This obligation is reflected, *inter alia*, in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Arab Charter of Human Rights.

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

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I 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 related to the allegations of torture.
2. Please provide the details and, where available, the results of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to these allegations. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information on what steps have been taken to date regarding an investigation that Dr. Al-Fregi and Dr. Rubaye were subjected to torture and cruel, inhuman or degrading treatment during their detention.
4. Please provide details of any prosecutions initiated in this regard, and whether penal, disciplinary or administrative sanctions have been imposed on the perpetrators.

I would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I 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(s) responsible for the alleged violations.

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

Nils Melzer

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

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, I would like to refer your Excellency's Government to Article 7 of the International Covenant on Civil and Political Rights, which provides that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Furthermore, I would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Iraq ratified on 7 July 2011.

In this context, I would like to draw the attention of your Excellency's Government to article 12 of the Convention Against Torture and other cruel, inhuman and degrading treatment or punishment (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.

I 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. Further, 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." and "(t)o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken."