

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 and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
UA IRQ 6/2020

9 November 2020

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 and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 42/22, 45/3, 43/4 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged enforced disappearance of human rights defender **Ali Jasib Hattab Al Holaijy**

Mr Ali Jasib Hattab Al Holaijy is a human rights defender and lawyer, resident of Amarah in the Maysan Governorate. Prior to his alleged disappearance, he provided legal representation for individuals arrested in connection with their participation in the peaceful demonstrations that took place in several cities in Iraq during 2019, including in the Maysan Governorate. He was also a vocal critic of human rights violations, including killings, alleged to have been committed in the context of the demonstrations by the Popular Mobilization Units (PMU), which were incorporated into the Iraqi Armed Forces in 2016.

According to the information received:

Between 1 October 2019 and 21 March 2020, the United Nations Assistance Mission for Iraq (UNMI) and the Office of the High Commissioner for Human Rights (OHCHR) verified the alleged disappearance of 123 persons in the context of the protests that had taken place in the country. In all incidents the victims had either participated in the demonstrations or provided support to demonstrators. The Working Group on enforced or involuntary disappearances addressed these disappearances in a [General Allegation](#) transmitted to Iraq on 13 July 2020. UNAMI and OHCHR were able to confirm the whereabouts of 103 of them as of April 2020, while the fate and whereabouts of twenty of these persons remained unknown. Of the individuals whose whereabouts had been ascertained at least 32 were abducted in circumstances indicating the involvement of armed actors ("militia"). Most of those abducted were activists before the demonstrations began and played a key role in their development or posted about them on social media.

On 1 October 2019, demonstrations in relation to unemployment, corruption and poor public services began in several southern and central Iraqi governorates,

including the Maysan governorate. Mr Al Holaijy was a participant in these demonstrations.

On 6 October 2019, two armed members of the Popular Mobilization Units (PMU), part of the Iraqi forces, came to Mr Al Holaijy's home in Amarah. The individuals warned the human rights defender to stop speaking out on Facebook about the killing of people participating in the demonstrations that had begun in the country, and to stop accusing certain factions of the PMU of perpetrating these killings, threatening him with death if he continued.

On 8 October 2019, Mr Al Holaijy met a client at a pre-arranged point in Amarah. Upon arriving at the location he stood by the car of the client while speaking to him. As he did, armed men alleged to be members of the PMU dragged him from where he stood and took him into one of two black pick-up trucks at the scene, both allegedly belonging to the PMU. The men then drove Mr Al Holaijy away, since then his whereabouts remain unknown.

Relatives of Mr Al Holaijy reported the abduction of the human rights defender, which was allegedly caught on camera, to the local police station and the Iraqi National Security Service, however, no information as to his whereabouts has since been provided to them. The relatives also asked the police and the concerned investigative judge to investigate the call-log of Mr. Holaijy in order to identify his client, to whom he had gone to meet at the abduction site and to help trace his whereabouts. But the complainants received no updates, except the statements of local authorities that they were investigating the case.

While we do not wish to prejudge the accuracy of the information received, we express extreme concern as to the whereabouts of Mr Al Holaijy, in what may amount to a case of enforced disappearance, allegedly carried out by members of Popular Mobilization Units. We stress our concern at the possibility that he may be at risk of torture or other ill-treatment. The alleged role of members of the PMU, part of the Iraqi Security Forces, in the human rights violations against the defender, including the death threats preceding his disappearance is also a matter of serious concern.

We express further concern that his alleged abduction would appear to have been carried out in direct response to his legitimate human rights legal work, participation in public demonstrations and acts of expression made online.

While reiterating our wish not to prejudge the accuracy of the information received, the above-detailed allegations would appear to indicate the contravention of articles 7, 9, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Iraqi Government on 25 January 1971, and articles 1, 3 and 6 of the Convention for the Protection of All Persons from Enforced Disappearance, acceded to by your Excellency's Government on 23 November 2010, as well as a number of related international human rights standards, including 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 and the Basic Principles on the Role of Lawyers.

The full texts of these human rights instruments and standards 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 as to the initial steps taken by your Excellency's Government to identify the whereabouts of Mr. Al Holaijy and inform his family of them, in compliance with international human rights law.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and/or any comments(s) you may have on the above-mentioned allegations.
2. Please provide the results of any investigation that may have been carried out following the complaints lodged subsequent to Mr Al Holaijy's alleged enforced disappearance since 8 October 2019. Please provide specific information as to measures taken to ensure that these investigations were carried out in a transparent, timely and impartial manner. In the case that no such investigations have been carried out, please provide information as to the reasons for this, and how this complies with Iraq's obligations under international human rights law.

Please provide information regarding efforts deployed to search for Mr Al Holaijy and determine his fate and whereabouts. Kindly provide details regarding support provided to the relatives of Mr. Al Holaijy including information provided to them with regards to the actions undertaken by the authorities to determine his fate and whereabouts.

3. Please provide information as to concrete steps that have been taken or may be in the process of being taken to prevent further abductions and enforced disappearances of human rights defenders, protesters and any other persons in Iraq from occurring. If no such steps have been taken, please indicate a manner in which we may be able to engage with your Government as to the development and implementation of such concrete steps.

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.

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

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.

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

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

Tae-Ung Baik
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Mary Lawlor
Special Rapporteur on the situation of human rights defenders