

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
UA IRQ 2/2021

23 March 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 44/5, 42/22, 45/3, 43/4, 41/12 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 extrajudicial killing by individuals linked to the Iraqi armed forces of Mr. **Jasib Hattab Abboud Al Heliji**, father of human rights defender Mr. **Ali Jasib Hattab Al Holaijy**, who remains forcibly disappeared.

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.

The case of Mr Ali Jasib Hattab Al Holaijy was the subject of communication IRQ 6/2020, sent on 9 November 2020. We regret that no reply has been received from your Excellency's Government to date.

According to the information received:

Mr Ali Jasib Hattab Al Holaijy was abducted by individuals allegedly belonging to the Popular Mobilization Units (PMU, part of the Iraqi security forces) on 8 October 2019, shortly after being threatened by the PMU regarding his activities as a human right defender and his participation in a demonstration against unemployment, corruption and poor public services. His fate and whereabouts remain unknown.

In October 2019, Mr Ali Jasib Hattab Al Holaijy's father, Mr Jasib Hattab Abboud Al Heliji filed a lawsuit against members of the Ansar Allah Al Awfiya militia, under articles 421-422 of the Penal Code of Iraq, accusing them of being responsible for the abduction of his son. The Ansar Allah Al Awfiya militia is part of the PMU.

In July 2020, Mr Jasib Hattab Abboud Al Heliji posted a video on social media stating that "all evidence, witness testimonies and security reports prove that the Ansar Allah Al Awfiya militia is responsible" for the abduction of his son. He also stated that his own life was in danger and that he felt he may be assassinated. The video circulated widely.

In September 2020, Mr Jasib Hattab Abboud Al Heliji met with the Prime Minister of Iraq and shared with him the court documents and the name of the militia believed to be responsible.

On 10 March 2021, Mr Jasib Hattab Abboud Al Heliji was returning from the funeral of an activist when he was stopped and shot in the head by an unidentified gunman.

A suspect in the killing has been arrested. It is believed the suspect has links to the Ansar Allah Al Awfiya militia and reportedly had ties with one of the group's leaders, [REDACTED], who was named in the criminal complaint filed by Mr Jasib Hattab Abboud Al Heliji. It is understood that the leader has yet to be questioned regarding the incident.

While we do not wish to prejudge the accuracy of the information received, we are extremely concerned by the alleged killing of Mr Jasib Hattab Abboud Al Heliji, in an apparent retaliation for his efforts to obtain justice for the abduction and disappearance of his son, and that the perpetrator appears to have links to the Popular Mobilization Units, part of the Iraqi Security Forces. We are further concerned that, given the circumstances of his son's disappearance, the law suit he filed and his viral social media video raising his concerns that he may be assassinated, it appears the Government knew or should have known that Mr Jasib Hattab Abboud Al Heliji's life could be at particular risk. Additionally, we are gravely concerned that in light of Mr Jasib Hattab Abboud Al Heliji's public exposure on the situation of his son, his killing may also constitute a violation of his right to freedom of opinion and expression.

We reiterate our extreme concern as to the fate, whereabouts and physical integrity of Mr Ali Jasib Hattab Al Holaijy, in what may amount to a case of enforced disappearance carried out in direct response to his human rights activities, participation in public demonstrations and online acts of expression, and the apparent limited progress in investigations into his abduction. We are further concerned that the situation may have a chilling effect and discourage participation in assemblies. We reiterate our call that the fate and whereabouts of Mr Ali Jasib Hattab Al Holaijy be immediately clarified, and that full light be made on his disappearance.

The above-detailed allegations would appear to indicate the contravention of articles 6, 7, 9, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iraq on 25 January 1971, which guarantee the rights to life, to liberty and security, to freedom of expression, peaceful assembly and of association; as well as articles 1, 3, 6 and 12 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.

We would like to highlight that there is a positive obligation on states to take all necessary measures to prevent arbitrary deprivation of life by their law enforcement officials and agents (Human Rights Committee, General Comment No. 31 and 36). Furthermore, the duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence (ibid). Additionally, article 12 of the Convention for the Protection of All Persons from Enforced Disappearance, requires that appropriate steps be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person amongst others, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

We also emphasise that failure to investigate violations of the right to life and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR. Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. Investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates and should be independent, impartial, prompt, thorough, effective, credible and transparent (Human Rights Committee, General Comment 36).

We underscore that States must take special measures of protection towards persons in vulnerable situations whose lives might be at particular risk because of specific threats or pre-existing patterns of violence. We further stress that States are under an obligation to put in place effective measures to protect individuals against attacks aimed at silencing those exercising their right to freedom of expression.

Finally we also wish to refer your Excellency's Government to article 9 of the ICCPR on the right to liberty and security of person. In particular, we underline that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant, including articles 19 and 22, is arbitrary, and that enforced

disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention (Human Rights Committee, General Comment 35)

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, as well as to promptly investigate the killing of Mr Jasib Hattab Abboud Al Heliji with a view to preventing further violations 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 information on the steps taken, and where available the results, of any investigation carried out into the killing of Mr. Jasib Hattab Abboud Al Heliji, including the steps taken to identify the direct and indirect perpetrators responsible and the measures taken to prevent future killings. If no such investigation has been carried out, or where such an investigation has proved inconclusive, please explain why and how this is compatible with Iraq's international human rights obligations.
3. Please provide information on whether any steps were taken to assess the possible risk faced by Mr. Jasib Hattab Abboud Al Heliji and to provide him with any protection prior to his killing.
4. Please indicate what measures the State has taken to protect human rights defenders and those who organized and participated in peaceful protests in the country.
5. Please provide information on the questions previously raised in IRQ 6/2020:
 - a. 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.

- b. 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.
- c. 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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

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