

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

REFERENCE:
AL IRQ 4/2021

1 November 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 43/16, 43/4 and 41/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged physical attacks, threats and judicial harassment against Mr. **Karar al-Assaf**, in relation to his work as a journalist and human rights defender covering anti-government protests in Iraq.

Mr. al-Assaf is a journalist and human rights defender, who worked in Najaf as a correspondent for the Dijlah TV and Yalla Iraq media outlets, with a focus on public corruption, mismanagement of public services and failures regarding public safety.

Concerns regarding the targeting of human rights defenders, civil society activists and journalists by State security forces and unidentified armed elements in the context of the multifaceted demonstrations concerning, among other issues, unemployment, corruption, the lack of provision of public services and the restriction of public freedoms, that have taken place in Iraq since October 2019, have been raised in several communications by Special Procedures mandate holders. These concerns have been communicated to your Excellency's Government by Special Procedures mandate holders since October 2019, with the most recent such communication being IRQ 3/2021. We thank your Excellency's Government for the replies received to the majority of these communications, however, we regret that to-date, no response has been received to the above-mentioned communication.

According to the information received:

In October 2019, anti-government protests started in central and southern Iraq. Over the ensuing months, nearly 600 protestors were reportedly killed by security forces and militia groups. Mr. al-Assaf began covering the protests as a correspondent for the Dijlah TV and Yalla Iraq media outlets in Najaf.

In December 2019, Mr. al-Assaf began receiving threats of bodily harm on social media from unknown individuals, allegedly based on his reporting of the protests and the violence against protestors. These threats continued for several months and several of Mr. al-Assaf's colleagues were killed, prompting others to quit.

On 8 June 2020, Mr. al-Assaf was documenting the protests in Najaf as protestors began to withdraw from the square that they had been occupying. Mr. al-Assaf was approached by a Colonel of the Najaf police in the company of a number of high-ranking officers, and he was asked for identification. After presenting his press credentials and assuring the Colonel and the officers that his camera was turned off, the Colonel allegedly started to verbally abuse Mr. al-Assaf and demanded that he handed over his equipment, ensuring that it would be safe. Allegedly, upon handing over his equipment, another officer proceeded to destroy it.

The Colonel then allegedly escorted Mr. al-Assaf to an area where several dozen police officers and civilians were gathered. The Colonel identified Mr. al-Assaf as a correspondent for Dijlah TV and reportedly inveighed against him, to which the crowd joined in, cursing the human rights defender and accusing him of seeking the downfall of the governor of Najaf. The crowd then allegedly started to beat Mr. al-Assaf with batons and pipes, causing bruising to his arm and back. The Colonel later allegedly claimed that he had tried to protect Mr. al-Assaf.

Shortly afterwards, Mr. al-Assaf called Najafi officials to inform them of the incident, including the governor of Najaf, the chief of police, the chief of governmental communications, and the Najaf police press director, although none responded. Mr. al-Assaf submitted a complaint at the Najaf investigative court on 11 June 2020, after which he then submitted the same complaint to the Najaf appellate court on 13 June 2020, upon instruction of the judicial authorities. Mr. al-Assaf never received responses to either of the complaints, nor was he provided with copies of them.

On 27 July 2020, Mr. al-Assaf was reporting on the protests in Najaf when he was allegedly assaulted again by members of the security forces. In response, he submitted a complaint that day at the Najaf police headquarters.

On 30 August 2020, during the Shiite holy month of Muharram, Dijlah Tarab, a separate affiliate of Dijlah TV, aired a musical concert. The performance coincided with the Ashura holiday, which sparked a wave of outrage, during which Dijlah Tarab was often confused with Dijlah TV. On 21 August 2020, the Russafa Investigative Court in Baghdad issued an arrest warrant for Dijlah TV's owner. On the same day, arsonists set fire to Dijlah TV's offices in Baghdad and attempted to do the same in Najaf. Mr. al-Assaf and several of his colleagues received numerous death threats, and his landlord also refused to continue renting to him.

On 1 September 2020, Mr. al-Assaf fled to the Kurdistan region in northern Iraq, where he continued to receive threats online. On 17 September 2020, he received a call from a Najaf security official informing him of a confidential intelligence cable linking these threats to organized militia groups. Mr. al-Assaf was also contacted by a spokesperson for the militia group Asa'ib Ahl al-Haq, who alleged that if he wished to return to Iraq, he must publicly resign from Dijlah TV and swear loyalty to the Islamic Resistance groups. On 24 September 2020, Mr. al-Assaf left Iraq and took refuge in Lebanon. From there, he applied for refugee resettlement through the UNHCR.

On 27 September 2020, a security officer allegedly submitted a criminal complaint against Mr. al-Assaf, claiming that he had assaulted the security officer and broken his leg, although the human rights defender had already exited the country. The same day, the Najaf Investigative Court issued a notice requesting Mr. al-Assaf's presence within three days, which he was unable to fulfil. The Court issued a second identical notice on 30 March 2021, which Mr. al-Assaf did not fulfil, due to his residence outside of the country and the nature of the claims. On 12 April 2021, the Court issued an arrest warrant for Mr. al-Assaf.

While in exile, Mr. al-Assaf has continued reporting on cases of corruption and human rights violations in Iraq, which has allegedly provoked further threats against him.

Without prejudging the accuracy of these allegations, we express concern at the physical attacks, threats and judicial harassment against human rights defender and journalist Mr. al-Assaf, which appear to be directly linked to the legitimate exercise of his right to freedom of opinion and expression, as well as of peaceful assembly and of association, provided by articles 19, 21 and 22 of the International Covenant of Civil and Political Rights (ICCPR), acceded by Iraq on 25 January 1971. Furthermore, we emphasize that the work carried out by journalists and media outlets covering anti-government protests in Iraq is legitimate and important, and is protected by the right to freedom of assembly, provided for under articles 19 and 21 of the ICCPR. The reported threats which Mr. al-Assaf continues to receive are cause for particular concern, as they represent a concerted effort to stifle his criticism of the Government and preclude him from exercising his right to freedom of expression.

In connection with the above alleged facts and concerns, please refer to the **Annex 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 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 comment(s) you may have on the above-mentioned allegations, including on what steps have been taken to investigate the alleged violations, including by members of the security forces? If the reported violations have not been investigated, please explain why.
2. Please provide information concerning the legal grounds for the use of force allegedly by members of the security reported in this case and how these measures are compatible with international human rights law.
3. Please indicate what measures have been taken to ensure that human rights defenders, including civil society, journalists and activists, can operate in an enabling environment and can carry out their legitimate

activities, including participating, monitoring and reporting on protests, without fear of harassment, stigmatization, violence or criminalization of any kind.

We 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, 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(s) responsible for the alleged violations.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Annex

Reference to international human rights law

The above-mentioned allegations appear to be in contravention of articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iraq on 25 January 1971.

Article 19 of the ICCPR guarantees the right of all persons to freedom of opinion and expression, encompassing the freedom to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (Paragraph 11). Any restrictions on freedom of opinion and expression must be strictly limited and meet the high threshold set out in article 19 (3) of the Covenant, following which any limitations must be determined by law and conform to the strict tests of necessity and proportionality. As underlined by the Human Rights Committee in its General Comment No. 34, it is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of opinion and expression (Paragraph 23). An attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest and torture, can under no circumstance be compatible with article 19 (Paragraph 23). All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress (Id.).

Article 21 of the ICCPR protects the right to peaceful assembly, stating that no restrictions may be placed on the exercise of the right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

The right to freedom of association under article 22 of the ICCPR requires States parties to take positive measures to establish an enabling environment for associations. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to, for example, any threats, acts of intimidation or violence. States additionally have a negative obligation not to unduly obstruct the exercise of the right. Associations, pursuing objectives and employing means in accordance with international human rights law should benefit from international legal protection. (A/HRC/20/27, paras. 63 & 64).

We would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials. Additionally, we would like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2007 (A/62/225, paras. 91 and 93), which underlines the importance of human rights monitors during demonstrations in

providing an impartial and objective account of what takes place and in deterring human rights violations.

We would like to draw the attention of your Excellency's Government to article 19 of the Universal Declaration of Human Rights (UDHR), which provides for the right to freedom of expression, as well as to the Human Rights Council resolution 12/16, calling on States to recognise the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. This right applies online as well as offline. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 29 of the UDHR. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We would also like to draw the attention of your Excellency's government to General Comment No. 37 of the Human Rights Committee (CCPR/C/GC/37), which in its paragraph 30 stressed that "the role of journalists, human rights defenders, election monitors and others involved in monitoring or reporting on assemblies is of particular importance for the full enjoyment of the right of peaceful assembly. Those persons are entitled to protection under the Covenant.¹ They may not be prohibited from, or unduly limited in, exercising these functions, including with respect to monitoring the actions of law enforcement officials. They must not face reprisals or other harassment, and their equipment must not be confiscated or damaged.² Even if an assembly is declared unlawful or is dispersed, that does not terminate the right to monitor. It is a good practice for independent national human rights institutions and non-governmental organizations to monitor assemblies".

Finally, we would like to refer your Excellency's Government to the fundamental principles set forth in 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, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a) and (c), which provide for the rights to meet or assemble peacefully, and to form, join and participate in non-governmental organizations, associations or groups;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental

¹ *Zhagiparov v. Kazakhstan* (CCPR/C/124/D/2441/2014), paras. 13.2–13.5. See also 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.

² CCPR/C/MRT/CO/1, para. 22. See also General Assembly resolution 66/164.

freedoms;

- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 9, paragraph 1, which provides for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.