

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

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(Please use this reference in your reply)

22 May 2025

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 52/7, 51/8, 53/4 and 51/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. Robert Pether, a national of Australia, and a resident of Ireland, deprived of liberty in Iraq since April 2021, and the subject of Working Group on Arbitrary Detention's (WGAD) Opinion No. 70/2021.

Mr. Pether, 50 years old, is allegedly being held in conditions of detention that are considered to fall below international standards regarding the requirements of humane and dignified treatment of all persons deprived of their liberty. As a result, his health status is reported to be rapidly deteriorating. We therefore request that Iraq address his health situation without delay in order to help protect his life and preserve his health, and avoid irreparable harm, including potentially fatal consequences. We further remind the Government of Iraq that it is unlawful under international law to arrest, prosecute and/or keep detained any individual for the purpose of leveraging another entity, as such conduct may constitute not only wrongful detention but also hostage-taking.

According to the information already on the record as of November 2021:

Mr. Pether was the lead engineer of CME Consulting, an engineering company based in the United Arab Emirates. The company was responsible for the construction of the new headquarters of the Central Bank of Iraq.

When a contractual dispute between CME Consulting and the Central Bank of Iraq emerged concerning an alleged failure in executing payments, Mr. Pether was actively involved in its resolution. He travelled to Baghdad on 1 April 2021 to facilitate the dispute resolution process, however, on 7 April 2021, he was arrested without a warrant.

From 7 to 19 April 2021, Mr. Pether was held at the D6 detention facility. He was detained in a 2-square-metre cell with the lights permanently on. He was reportedly blindfolded, interrogated, screamed at, threatened, insulted, and shown 'torture rooms'. In the first 12 days of detention, Mr. Pether lost 15 kgs

and became severely dehydrated. He was prevented from having contacts with the outside world for the first 19 days of detention. He was only permitted to go outside his cell for two hours.

In August 2021, Mr. Pether was sentenced to 5 years' imprisonment. His conviction, the grounds of which Mr. Pether disputes, was reportedly based on article 456/1 of the Iraqi Penal Code for entering into a contract with the Central Bank of Iraq whilst claiming to be a third-party representative and fraudulently receiving funds totalling 12 million US dollars.

In the Working Group on Arbitrary Detention's (WGAD) Opinion No. 70/2021, which is deemed to be referred to in full herein, adopted on 18 November 2021, the WGAD found that the deprivation of liberty of Mr. Robert Pether was arbitrary and was being used as leverage over his employer, CME Consulting, in a commercial transaction, in violation of international law.¹

Taking into account all the circumstances of the case, the WGAD considered that the appropriate remedy to the situation was to release Mr. Pether immediately and unconditionally, and to accord him an enforceable right to compensation and other reparations, including access to necessary medical treatment as soon as possible.²

The WGAD also considered that the treatment to which Mr. Pether had been subjected to in detention violated, *inter alia*, article 10(1) of the International Covenant on Civil and Political Rights (ICCPR), and had fallen significantly short of the provisions set out, *inter alia*, in rules 1, 24, 27 and 118 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the "Nelson Mandela Rules").³

These rules state that all persons deprived of their liberty must be treated with humanity and with respect for their inherent dignity as human beings, including enjoying the same standards of health care that are available in the community. In particular, rule 27(1) of the Nelson Mandela Rules requires that all prisons ensure prompt access to medical attention in urgent cases and that prisoners who need specialized treatment or surgery be transferred to specialized institutions or civil hospitals.⁴

The WGAD further expressed its gravest concern at the torture and ill-treatment allegedly inflicted on Mr. Pether, and at his deteriorating health situation. It considered that his continued detention constituted a very serious danger to his physical and mental integrity and decided to refer the case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or

¹ See A/HRC/WGAD/2021/70: <https://digitallibrary.un.org/record/3995169?v=pdf>

² *Ibid.*

³ *Ibid.*

⁴ On this, see also Human Rights Council resolution A/HRC/RES/10/24 on Torture and other cruel, inhuman or degrading treatment or punishment: the role and responsibility of medical and other health personnel: https://ap.ohchr.org/documents/sdpage_e.aspx?si=A/HRC/RES/10/24, paragraphs 9 and 10; as well as Human Rights in the administration of justice, Report of the High Commissioner for Human Rights (A/HRC/42/20): <https://docs.un.org/A/HRC/42/20>.

punishment.⁵

The WGAD urged the Government of Iraq to ensure that a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Pether was undertaken, and for appropriate measures to be taken against those responsible for the violation of his rights.⁶

According to the additional information received:

In early April 2022, approximately two weeks following the publication of the WGAD's opinion in March 2022, the Central Bank of Iraq reportedly brought a civil proceeding against Mr. Robert Pether, stemming from his criminal conviction in August 2021.

The August 2021 conviction was in relation to a commercial dispute between the Central Bank of Iraq and CME Consulting, initiated in June 2021, when CME brought an arbitral case against the Central Bank before the International Chamber of Commerce requesting damages for over 13 million US dollars. It concluded on 23 February 2023 when the Central Bank of Iraq was found liable for breach of its contractual obligations and was ordered to pay CME over 12 million US dollars.⁷ In January 2025, the fine became legally enforceable but, to date, has yet to be paid.

In October 2023, the civil proceedings that had been brought against Mr. Pether in April 2022 concluded with the court granting the Central Bank's request to find Mr. Pether liable to pay damages for 7 million US dollars.

Subsequently, on an unspecified date, Mr. Pether was subjected to an indefinite detention order at the request of the Central Bank of Iraq.

On 8 January 2025, Mr. Pether's 5-year sentence reportedly elapsed. However, he was not released and continues to be detained.

On 7 May 2025, Mr. Pether's challenge of the indefinite detention order was rejected. In the course of the proceedings, the judges allegedly pressured Mr. Pether to mediate between CME and the Central Bank of Iraq. Reportedly, one of them even stated on one occasion that Mr. Pether would only be released if he could convince CME to drop its claims against the Central Bank.

It is submitted that, while Mr. Pether has no power to influence CME, he repeatedly tried to find a solution with them. His attempts, however, have thus far consistently failed.

At present, Mr. Pether is held at the 5th Unit Detention Centre, Military Intelligence Headquarters, in Baghdad. He is reportedly facing the prospect of new criminal charges related to alleged money laundering, for which the penalty can reach up to 15 years' imprisonment, a fine, and the possible re-opening of a

⁵ See A/HRC/WGAD/2021/70, quoted above, footnote 1.

⁶ *Ibid.*

⁷ *Ibid.*

civil case before the Al-Karkh Appeal Court.

Since early 2025, his health has reportedly been declining at an alarming speed. In recent months, Mr. Pether has been mostly unable to eat, which has led to extreme weight loss. He is only able to ingest baby rice powder and sweet tea with honey. He is reportedly barely able to walk or sit. He is also suffering from bowel issues, seemingly caused by an obstruction, which, to date, has allegedly been left untreated.

For over 18 months, he has had an enlarged prostate, which, according to reports, is now approximately three times its normal size. This has also allegedly been left untreated. Although he was taken to a hospital on various occasions, whilst he was there, he allegedly had to remain shackled and was denied pain relief. The medical tests that were run by the doctors remain allegedly unknown. It is reported that they all always returned “normal” results.

Mr. Pether has also been experiencing severe pain in his lungs, which is leaving him breathless and unable to hold conversations. Recently, he reportedly underwent a PET/CT scan, which showed multiple mildly hypermetabolic metastatic nodules on his right lung. Such modules can be indicators of lung cancer, for which a proper diagnosis and urgent and specialised medical treatment would be needed, as appropriate.

Mr. Pether is a melanoma survivor. In 2023, he underwent a medical check of his moles after several new moles had appeared while in detention. Instead of undergoing a biopsy, however, the medical staff proceeded to make a deep 15-centimeter cut on Mr. Pether’s lower back, at a place where no suspicious mole was indicated. Other moles that were causes for concern, however, were left untouched; most notably, a mole on his ear where his previous melanoma was located. Due to the alleged lack of specialised training of the medical staff⁸ and the poor conditions of the surgery, Mr. Pether developed an acute infection and was left traumatised. It is feared that the possible reoccurrence of melanoma cannot be excluded given his medical history.

Upon returning from this latest PET/CT scan, Mr. Pether fainted and was unconscious for about two hours. To avoid any radiation spread to prison guards, he was also put in an isolation cell. His health situation is causing great distress and feelings of helplessness.

Thus far, Mr. Pether has reportedly received consular assistance, and the Australian diplomatic representation in Iraq recently filed an application to grant Mr. Pether permission to attend a private hospital. Pending the court’s decision, Mr. Pether was allegedly warned by a prison guard to abstain from asking the Australian government to intervene on his behalf. The court’s decision on the application was reportedly positive. However, to date Mr. Pether has still not been taken to a hospital for treatment.

⁸ See N.A.S. Al Alwan, ‘General Oncology in Iraq’, in H.O. Al-Shamsi et al (eds.), *Cancer in the Arab World* (2022), Chapter 5: only 96 cases of melanoma registered in Iraq in 2020 of which 34, or one-third of cases ended in death.

It is also alleged that Mr. Pether's arrest and protracted arbitrary detention is causing profound mental suffering and anguish to him. Mr. Pether has reportedly suggested to his family on many occasions that he could not bear his detention and would eventually opt to "leave on his own terms", an indication of risk of suicide. He is allegedly in an extremely fragile mental state and his feeling of powerlessness increases every day.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned by the reportedly declining health situation of Mr. Pether, brought on by and/or exacerbated by the conditions of his detention, as well as the uncertainty as to legal proceedings; and we are worried about his medical conditions and treatment. We are of the view that, without immediate access to adequate medical care, his present circumstances may constitute an increasingly imminent threat to his life and/or cause irreparable harm to his physical and mental health.

By depriving persons of their liberty, States assume responsibility to care for their lives and bodily integrity and must take all necessary measures to protect them.

Persons deprived of liberty must always be treated in a humane manner and with respect for their inherent dignity. They shall always have access, *inter alia*, to effective legal representation and adequate medical assistance; prompt judicial review of their initial and continuing deprivation of liberty; remedies for any violations; and have the possibility to communicate with a lawyer of choice, their relatives, and to be visited by independent human rights monitoring bodies. In the case of foreigners, they shall also be promptly informed of their right to communicate with a consular post or the diplomatic mission of the State of which they are nationals. Persons deprived of liberty also have the right to be informed at the time of arrest of the reasons for their arrest, and subsequently of any charges brought against them.

Inadequate conditions of detention and standards of treatment constitute violations of the prohibition of cruel, inhuman or degrading treatment or punishment, and may even amount to torture. When such conditions are seriously inadequate, they may further present an immediate or longer-term danger to health and life.

Based on this, we warn against the risk that the reported allegations, if established, could amount to a violation of Mr. Pether's right to life, protected by article 3 of the Universal Declaration of Human Rights (UDHR) and article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iraq in 1971; his right to be free from torture and other cruel, inhuman or degrading treatment or punishment, including the requirement of humane treatment in detention, protected, *inter alia*, by article 5 of the UDHR, articles 7 and 10 of the ICCPR, and, *inter alia*, articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Iraq in 2011; as well as of the right to the enjoyment of the highest attainable standard of physical and mental health, recognised in article 12 of the International Covenant on Economic, Social and Cultural Rights, also ratified by Iraq in 1971.

We stress that the obligation to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life even if such threats and situations do not result in loss of life. Furthermore, insofar

as Mr. Pether may be at risk of self-harm or suicide, we recall that States should take adequate measures to prevent suicides, especially among individuals in particularly vulnerable situations, including individuals deprived of their liberty.⁹

We emphasize that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is absolute and non-derogable. No circumstances, no matter how exceptional they may be, can ever justify torture or ill-treatment nor any form of impunity for such acts (article 4(2) of the ICCPR; article 2(2) and (3) of the CAT).

Furthermore, based on the findings of the WGAD, we reiterate that the arrest and subsequent detention of Mr. Pether is arbitrary and additionally point out that arbitrarily detaining foreign nationals under fabricated, false or exaggerated charges with the purpose of using them for financial, political or other forms of leverage against another entity, also constitutes a violation of the absolute prohibition against taking hostages, set forth, *inter alia*, in the International Convention Against the Taking of Hostages, ratified by Iraq in 2013. Hostage-taking may give rise to psychological torture or to cruel, inhuman or degrading treatment or punishment depending on the circumstances of arrest or detention in violation of the CAT; likewise, such circumstances can inflict pain and suffering on family members. We refer you to the Special Rapporteur on torture's report on hostage-taking as torture, A/HRC/88/55.¹⁰

In light of the above, we respectfully request that Mr. Pether be provided with urgent, adequate and comprehensive medical care, treatment and monitoring of his health situation, as appropriate, in a civil hospital. We stress that time is of the essence.

We also respectfully call on your Excellency's Government to unconditionally release Mr. Pether, without delay. The circumstances of his arrest and continued deprivation of liberty must be effectively investigated, pursuant to international standards, and those found responsible of any violation, must be brought to justice.

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 as soon as possible on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person 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 also 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.

⁹ See Human Rights Committee, General Comment No. 36, article 6, right to life (CCPR/C/GC/36): <https://docs.un.org/en/CCPR/C/GC/36>.

¹⁰ See Hostage-taking as torture, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/88/55): <https://www.ohchr.org/en/documents/thematic-reports/ahrc5855-torture-and-other-cruel-inhuman-or-degrading-treatment-or>.

2. Please provide updated and detailed information on the present state of physical and mental health of Mr. Pether. Please explain what measures have been taken, or may be envisaged to be adopted, to protect his life and preserve his health and well-being, including timely access to adequate medical care, and in a civil hospital, as appropriate.
3. Please provide detailed and updated information on the conditions of Mr. Pether's deprivation of liberty and please assess them against international human rights law and standards. In particular, the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, including the requirement of humane and dignified treatment in detention, and the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules); as well as the International Convention against the Taking of Hostages.
4. Please provide information on measures taken, or envisaged to be adopted, to implement Opinion No. 70/2021 of the Working Group on Arbitrary Detention regarding Mr. Pether's arbitrary deprivation of liberty. Please explain whether there has been any investigation in this connection, and please provide the results of it, including in terms of accountability of persons possibly found responsible of any violation. If there has been no investigation, please explain why.

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.

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 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 be informed that a copy of this letter will also be sent to the Permanent Mission of Australia and to the Permanent Mission of Ireland, in Geneva.

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

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

Matthew Gillett
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Morris Tidball-Binz
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