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Working Group on Arbitrary Detention

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Opinion No. 33/2017 concerning Rasha Nemer Jaafar al-Husseini and 18 others (Iraq)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The mandate of the Working Group was most recently extended for a three-year period in Council resolution 33/30 of 30 September 2016.

2. In accordance with its methods of work (A/HRC/33/66), on 27 January 2017 the Working Group transmitted to the Government of Iraq a communication concerning Rasha Nemer Jaafar al-Husseini and 18 other individuals. The Government replied to the communication on 15 March 2017. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. According to the source, the 19 Iraqi citizens listed below are all employees or persons with alleged personal connections with the former Vice-President of Iraq, Tariq al-Hashimi. They were all arrested by the Iraqi security forces between November 2011 and March 2012 and were secretly detained, tortured and sentenced to death under the Anti-Terrorism Law (Law No. 13) of 7 November 2005 by the Central Criminal Court of Iraq.

5. Rasha Nemer Jaafar al-Husseini, born in 1976, used to work as the personal secretary and media officer of Mr. Al-Hashimi. Ms. Al-Husseini usually resides in the Zayouna neighbourhood of Baghdad.

6. According to the source, on 27 December 2011, Ms. Al-Husseini was arrested at her house, after midnight, by members of the intelligence service, who did not provide an arrest warrant. She was subsequently detained for a period of three years on the premises of the former General Security Directorate in Baladiyah, Baghdad. She was not permitted to receive any visits from her family or her lawyer, nor was she allowed to communicate with them until the beginning of April 2012.

7. Furthermore, during the first three months of her detention, she was allegedly subjected to severe torture, including through beatings and rape, with the purpose of extracting information to be used as evidence in the course of her trial. On 18 April 2012, her lawyer submitted to the medico-judicial committee of the Central Criminal Court of Iraq a list of detainees, including Ms. Al-Husseini, who had been subjected to torture, demanding an investigation into their cases. On 1 April 2013, the Court reportedly dismissed the case of Ms. Al-Husseini and decided not to open an investigation into her allegations of torture. On the contrary, her forced confession was aired on Al-Fayhaa TV on 3 December 2012 during the news programme.

8. The source reports that on 18 February 2015, during an official visit to Al-Kazimiyah prison, Ms. Al-Husseini told the General Prosecutor of the Central Criminal Court of Iraq that she had been tortured by three named officials while detained in Baladiyah. However, no investigation was reportedly opened.

9. According to the source, it was only on 16 June 2012, i.e. almost six months after her arrest, that Ms. Al-Husseini was first referred to the Central Criminal Court of Iraq and notified of the fact that she was being charged for having “smuggled silenced weapons into Mr. Al-Hashimi’s house in Al-Yarmouk” and that the charges were based on her confessions, which had been extracted under torture and in the absence of any material evidence.

10. On 22 October 2014, the Al-Karkh branch of the Central Criminal Court of Iraq in Baghdad found her guilty of “having provided and transferred silenced guns for terrorist ends”, considered a terrorist act under articles 2 (1), (3) and (7) of the Anti-Terrorism Law. The Court subsequently sentenced her to death on the basis of article 4 of the Law, which provides for the death penalty for the above-mentioned terrorist act. Her lawyer filed an appeal on 11 November 2014, which is still pending.

11. Ghassan Abbas Jasim al-Kubaisi, born in 1977, is married and has a child. He usually resides in Al-Alam district, Salah Ad Din Province. He was a personal bodyguard of Mr. Al-Hashimi.

12. Omar Sameer Jawad al-Noaemy, born in 1980, is married and has a child. He usually resides in the Zayouna neighbourhood of Baghdad. He was a personal bodyguard of Mr. Al-Hashimi.

13. Uday Ghazy Amin al-Ithawi, born in 1975, is married and has three children. He usually resides in the Al-Mansour district of Baghdad. He was a personal bodyguard of Mr. Al-Hashimi.

14. Yasser Saadi Hassoun al-Zubaidi, born in 1985, usually resides in Diyala Province. Mr. Al-Zubaidi was a personal bodyguard of Mr. Al-Hashimi.

15. Osama Hamid Hammoud al-Halbusi, born in 1985, usually resides in the Ghazaliya neighbourhood in the western outskirts of Baghdad. Mr. Al-Halbusi was a personal bodyguard of Mr. Al-Hashimi.
16. Asim Jabbar Aath Fayyad al-Mashhadani was born in 1981. He was a personal bodyguard of Mr. Al-Hashimi.
17. Natek Abdullah Ibrahim al-Aqidi, born in 1974, usually resides in Suwayrah. He is married and was a personal bodyguard of Mr. Al-Hashimi.
18. Ahmed Shawki Saoud al-Kubaisi, born in 1984, usually resides in Al-Yarmouk, Baghdad. He used to be an employee of the Independent High Electoral Commission and is the brother of one of Mr. Al-Hashimi's bodyguards.
19. Hekmat Nasser Hamad Dahi al-Obeidi, born in 1978, usually resides in Al-Mahmudiya, a city south of Baghdad. He was a personal bodyguard of Mr. Al-Hashimi.
20. Sohail Akram Salman al-Gehiche, born in 1981, is married and normally resides in Suwayrah. Mr. Al-Gehiche was Mr. Al-Hashimi's secretary.
21. Ali Mahmoud al-Dulaimi, born in 1979, is married and usually resides in Al-Mada'in, Baghdad Province. He was a personal bodyguard of Mr. Al-Hashimi.
22. Marwan Mokhayber Ahmed al-Dulaimi usually resides in Al-Mada'in. He was a personal bodyguard of Mr. Al-Hashimi.
23. Amjad Hamid Ozgar M'hidi al-Dulaimi, born in 1988, works as a farmer.
24. Arshad Hamid Ozgar M'hidi al-Dulaimi, born in 1991, usually resides in Al-Mada'in. He used to work as a farmer. He is the brother of Amjad al-Dulaimi.
25. Raad Hammoud Salloum Hussein al-Dulaimi, born in 1981, usually resides in Al-Mada'in. He used to work in the real estate registration department of the Government.
26. Ahmed Shawki Abdel Karim Mohammed al-Sharabati, born in 1970, usually resides in Al-Adhamiyah, Fahama, Baghdad. He used to head Mr. Al-Hashimi's bodyguard patrol.
27. Mohammed Hussein Obaid Hussein al-Janabi, born in 1973, usually resides in Al-Latifya, southern Baghdad. He used to be the captain of Mr. Al-Hashimi's bodyguard patrol.
28. Qais Qader Mohammad Ali Abbas al-Bayati, born in 1977, used to reside in Kirkuk and was a bodyguard of Mr. Al-Hashimi.
29. The source submits that the above-mentioned cases illustrate a pattern of arbitrary detention of employees or persons with alleged connections with Mr. Al-Hashimi.
30. Mr. Al-Hashimi was a leading member of the secular Al-Iraqiyya coalition and the main electoral rival of the former Prime Minister of Iraq, Nouri al-Maliki. He was a well-known critic of what he saw as Mr. Al-Maliki's attempts to centralize power.
31. According to the source, in December 2011, in an escalation of tensions between Mr. Al-Maliki and Mr. Al-Hashimi, who were at odds over the formation of a unity government, the Iraqi security forces, under the orders of Mr. Al-Maliki, raided Mr. Al-Hashimi's house. However, since he had left Baghdad on 18 December 2011 and fled to the semi-autonomous Kurdistan region, he could not be found. Mr. Al-Hashimi then left Kurdistan for security reasons to seek refuge in Turkey.
32. The source reports that, in retaliation, all members of his staff were arrested and individuals close to him allegedly continue to be victims of reprisals by the Iraqi authorities. On 19 December 2011, the Ministry of the Interior announced during a press conference that an arrest warrant had been issued against Mr. Al-Hashimi for having "orchestrated bombing attacks". During the press conference, the State-run channel Al-Iraqiyya aired the confessions made at gunpoint by three of Mr. Al-Hashimi's bodyguards, who had been severely tortured and were still bearing signs of torture, claiming that Mr. Al-Hashimi had orchestrated the attacks of which he had been accused.

33. According to the source, on 9 September 2012 Mr. Al-Hashimi was sentenced to death in absentia by the Central Criminal Court of Iraq, on the basis of his bodyguards' coerced testimonies. In November 2012, the Court issued a second death sentence against him for "plotting to assassinate government officials" and "having ordered bombings and other attacks from 2005 to 2011".

34. The source reports that between November 2011 and March 2012 the security services, tightly controlled by Mr. Al-Maliki, carried out dozens of arrests targeting persons allegedly close to Mr. Al-Hashimi, among whom were the individuals listed above. All those arrested were reportedly taken to secret locations, where they were severely tortured and forced to sign confessions incriminating themselves and Mr. Al-Hashimi. On the basis of those confessions, they were later sentenced to death under the Anti-Terrorism Law.

35. In the light of the foregoing, the source submits that the deprivation of liberty of the above-mentioned individuals falls under categories I, III and V of the categories applicable to cases under consideration by the Working Group.

Category I: absence of a legal basis justifying the deprivation of liberty

36. The source refers to article 9 (1) of the International Covenant on Civil and Political Rights, ratified by Iraq in 1971. Article 9 (1) provides that no one shall be deprived of liberty except in accordance with procedures established by law. However, according to the source, the 19 individuals who are the subject of the present opinion were arrested without a warrant previously issued by a judicial authority and no legal basis has been invoked by the authorities to justify their deprivation of liberty.

37. Furthermore, Ms. Al-Husseini was brought before a judicial authority to confirm the charges against her six months after her arrest, while Messrs. Al-Zubaidi, Al-Halbusi, Al-Mashhadani, Al-Aqidi, Al-Kubaisi, Al-Obeidi, Al-Gehiche, Ali al-Dulaimi, Raad al-Dulaimi, Marwan al-Dulaimi, Arshad al-Dulaimi, Amjad al-Dulaimi, Al-Sharabati, Al-Janabi and Al-Bayati were brought before a judge 10 days after their arrest.

38. The source states that a period of custody lasting 10 days (and of six months in the case of Ms. Al-Husseini), without judicial oversight, far exceeds the time limit set forth in the Constitution (art. 19 (13)) and the Code of Criminal Procedure (art. 123 (a)) of 24 hours, which can be extended only once for an additional 24 hours. The source notes that such a time limit has also been recognized in international human rights law, including in paragraph 33 of the Human Rights Committee's general comment No. 35 (2014) on liberty and security of persons.

39. The source submits that, since the length of custody in the present cases is contrary to domestic and international law, the above-mentioned individuals have been deprived of their liberty in violation of the procedures established by law and lacks any legal basis.

Category III: non-observance of international fair trial norms

40. The source submits that the detention of the 19 above-mentioned individuals is arbitrary and in violation of international fair trial norms as enshrined in Iraqi national law and the Covenant.

41. The source alleges that, in all the cases reported, the victims were arrested without an arrest warrant and without being informed of the reasons for the arrest. The source submits that this violates article 92 of the Code of Criminal Procedure and article 9 (2) of the Covenant.

42. Furthermore, Ms. Al-Husseini and Messrs. Al-Kubaisi, Al-Noaemy, Al-Dulaimi, Al-Ithawi and Al-Sharabati were reportedly all detained incommunicado, without being allowed any contact with the outside world, for a period ranging from three months to two years. As incommunicado detention puts detainees completely outside the protection of the law, the source underlines that this is per se a violation of fair trial rights and amounts to torture and inhuman and degrading treatment.

43. Additionally, the source highlights that all the individuals were subjected to torture, through severe beatings and electrocution, as well as rape in the case of Ms. Al-Husseini. The source submits that this represents a clear violation of article 37 (1) (c) of the

Constitution, which prohibits the use of torture; articles 7 and 10 of the Covenant; and of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Iraq has been a party since 2001.

44. According to the source, torture was used to extract confessions that were then used as material evidence to convict the accused. This represents a violation of article 127 of the Code of Criminal Procedure, which prohibits the use of any confession made under force, threat or torture, article 37 of the Constitution, article 14 (3) (g) of the Covenant and article 15 of the Convention against Torture.

45. Since no inquiry was opened into the allegations of torture, not even when a specific request was made to do so, as in the case of Ms. Al-Husseini, the source submits that article 12 of the Convention against Torture was also violated. The source refers to the concluding observations on the initial report of Iraq, in which the Committee against Torture expressed its concern over the use of coerced confessions and recommended that Iraq adopt effective measures to guarantee that coerced confessions or statements are inadmissible in practice and that sanctions are taken against judges who fail to respond appropriately to allegations of torture raised during judicial proceedings (see CAT/C/IRQ/CO/1 and Corr.1, para. 22).

46. The source adds that the forced confessions of Ms. Al-Husseini and Messrs. Marwan Al-Dulaimi and Al-Sharabati were broadcast on television, which represents a violation of the principle of the presumption of innocence enshrined in article 14 (2) of the Covenant, as well as of their inherent dignity. According to the source, the practice of airing confessions on television is widespread in Iraq, to the extent that the State-controlled channel Al-Iraqiyya runs a series entitled “Terror in the hands of justice” that shows alleged terrorists being brought in to “confess their crimes”.

47. The source also points out that the right of the above-mentioned individuals to a defence was violated. In none of the cases reported were the victims allowed to have their lawyers present during their interrogation or to have their lawyers assist them during the investigative stage. This violates article 19 (4) of the Constitution and article 123 (b) (ii) of the Criminal Code, which guarantees the right to a defence during all phases of the investigation and trial, as well as of article 14 (3) (b) and (d) of the Covenant.

48. In addition, during the joint trial of five of the individuals (Messrs. Raad al-Dulaimi, Marwan al-Dulaimi, Arshad al-Dulaimi, Amjad al-Dulaimi and Al-Sharabati), the defence lawyers were reportedly not allowed to call witnesses. The source highlights that this aggravates the fact that the victims were not allowed to be in contact with their lawyers to prepare their defence. In particular, Mr. Al-Sharabati was not allowed to be in contact with his lawyer at all for the entire duration of his trial, thus breaching the right to a fair and public hearing enshrined in article 14 (1) of the Covenant and the right to a defence as stipulated in article 14 (3) (e) of the Covenant.

49. The source underlines that all the lawyers in charge of the above-mentioned cases said they had been subjected to threats by the Iraqi security forces for their work. The source submits that this is a clear violation of principle 16 (a) and (c) of the Basic Principles on the Role of Lawyers, which protects lawyers from any form of intimidation or harassment, and principle 18 of the same Basic Principles, according to which lawyers must not be identified with their clients or their client’s causes as a result of discharging their function.

50. Furthermore, the source submits that the imposition of the death penalty following a flawed procedure during which forced confessions were admitted as evidence violates article 6 (2) of the Covenant, which provides that the imposition of the death penalty should not be contrary to other provisions of the Covenant. The source notes that the systematic issuance of death sentences in a country where there is a “significant risk of a miscarriage of justice” has been denounced by the United Nations as a violation of the right to life.¹

¹ United Nations Assistance Mission in Iraq and Office of the United Nations High Commissioner for Human Rights, *Report on the Death Penalty in Iraq* (Baghdad, October 2014), p. 26.

51. Furthermore, the source recalls that the Central Criminal Court of Iraq is well known for not meeting international standards of due process and a fair trial, as defendants are regularly not provided with effective means to defend themselves and as confessions obtained under torture and alleged “intelligence” reports are heavily relied upon without being supported by further evidence.

52. Finally, the source notes with concern that the Central Criminal Court of Iraq can prosecute cases on the basis of the Anti-Terrorism Law, which has been criticized by the Human Rights Committee for its broad definition of terrorism. Given that such a broad definition is susceptible to wide interpretation, the Committee recommended that measures to combat terrorism be fully compatible with the Covenant (see CCPR/C/IRQ/CO/5, paras. 9-10). The source notes that it is all the more worrying that death sentences are continuously carried out in great numbers in the framework of the current “fight against terrorism”.

53. The source consequently submits that the non-observance of the international norms relating to the right to a fair trial is of such gravity as to give the deprivation of liberty of the above-mentioned individuals an arbitrary character. The source also submits that the deprivation of liberty of the above-mentioned individuals falls under category III of the categories applicable to cases under consideration by the Working Group.

Category V: detention based on discrimination

54. The source submits that the above-mentioned individuals were arrested and detained because of discrimination based on their alleged political affiliation to Mr. Al-Hashimi.

55. The source recalls that all the victims had a strong link with Mr. Al-Hashimi and that most were his employees, working either as secretaries in his office or as his bodyguards. Nevertheless, it is worrying to note that some victims have been targeted for merely being relatives or friends of his employees, as in the cases of Messrs. Al-Mashhadani and Al-Kubaisi, or for having been allegedly named during coerced confessions, as in the cases of the Al-Dulaimi brothers.

56. In addition, the source notes that all the victims, including Mr. Al-Hashimi, were charged under the Anti-Terrorism Law. The source highlights that, according to international human rights law organizations, that Law is routinely used in Iraq to silence the opposition and critical voices.

57. Finally, the source recalls with utmost concern that all the above-mentioned individuals were sentenced to death by the Central Criminal Court of Iraq on the sole basis of confessions extracted under torture and after heavily flawed trials and that this is an indication of the politicized nature of their prosecution.

58. In the light of the above, the source submits that the cases of deprivation of liberty that are the subject of the present opinion result from reasons of discrimination owing to the victims’ alleged political opinion or affiliation, in violation of international law, and that they therefore fall under category V of the categories applicable to cases under consideration by the Working Group.

Response from the Government

59. On 27 January 2017, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure, requesting the Government to provide detailed information by 27 March 2017 about the current situation of the 19 above-mentioned individuals, as well as any comment on the source’s allegations.

60. The Working Group also requested the Government to clarify the legal provisions justifying their continued detention, as well as their compatibility with the obligations of Iraq under international human rights law, in particular its obligations under the treaties ratified by the State. Moreover, the Working Group called upon the Government to ensure the physical and mental integrity of the individuals.

61. In its response dated 15 March 2017, the Government of Iraq transmits the information set out below from the Supreme Court.

62. On 6 December 2011, a car bomb set to explode was seized in the area of Al-Mada'in, based upon accurate intelligence information; Marwan al-Dulaimi, a former bodyguard, was arrested while in possession of a letter from Mr. Al-Hashimi, who was supervising the preparation of the explosion with other terrorists he had met through his relationship with officers and employees of the Presidential Regiment. Based on the confessions of Mr. Al-Dulaimi, other investigative procedures were undertaken in accordance with the law.

63. All of the 19 accused persons were reportedly arrested following arrest warrants legally issued by a competent judge and investigative bodies before their dissolution.

64. All of the 19 accused persons, as well as other accused persons, were investigated by the dissolved investigative bodies mentioned above without any preliminary investigations having been carried out by the competent security authorities and in the presence of the general prosecution, lawyers, agents and persons assigned to the accused.

65. According to the Government, all of the 19 accused persons were examined by the forensic medicine department and their medical reports were attached to the investigation files in accordance with the law.

66. All of the 19 accused were sentenced by the Central Criminal Court of Iraq for cases other than the main case; some of them still have cases pending before the Court or cases under investigation. In addition, all of the 19 accused are being detained by the Iraqi correctional service.

Further comments from the source

67. The response received from the Government of Iraq was transmitted to the source for comments on 16 March 2017. In its comments of 3 April 2017, the source regrets that little information was provided rebutting the allegations of serious human rights abuses documented by the source and that a clear explanation of the facts was not given.

68. At the outset, the source notes that the charge of organizing a terrorist attack using a car bomb levelled against Marwan al-Dulaimi was confirmed by the Central Criminal Court of Iraq on the sole basis of a testimony delivered by members of the Iraqi security services and Mr. Al-Dulaimi's confession, which was extracted under torture and was not corroborated by any material evidence.

69. Regarding the Government's statement that, "based on his confessions, other investigation procedures were taken in accordance with the law", the source points out that the confessions were extracted under torture and then broadcast on television, in violation of the principle of the presumption of innocence. Moreover, it was on the basis of information extracted under torture that other individuals were brought to trial, including the two brothers, Messrs. Amjad and Arshad al-Dulaimi, who did not even personally know or have any relationship with either Marwan al-Dulaimi or Mr. Al-Hashimi.

70. The source adds that, contrary to the Government's claim, none of the 19 individuals have been provided with an arrest warrant previously issued by a judicial authority.

71. With regard to the contention by the Government that all of the 19 accused were examined by the forensic medicine department and that their medical reports were attached to their investigation files, the source questions how this information could rebut the allegations of torture raised in any individual case at stake. The source notes that the examinations could have been carried out before acts of torture were perpetrated, or much later, when the wounds resulting from torture had already disappeared. In that respect, the source refers to a report in which it is observed that suspects are commonly denied access to a doctor while in police custody and that, while in police custody, detainees are interrogated and tortured.² The source states that it could be the case that medical reports

² United Nations Assistance Mission for Iraq (UNAMI) Human Rights Office and Office of the High Commissioner for Human Rights, Report on the judicial response to allegations of torture in Iraq (February 2015, Baghdad), p.3.

did not mention injuries resulting from torture at all or mention acts of torture as the cause of injuries.

72. According to the source, it is likely that, even if the medical reports had mentioned the presence of injuries caused by acts of torture, the adjudicating authorities would not have taken them into consideration, as is reportedly the practice in Iraq.³ The source recalls that the 19 individuals who are the subject of the present opinion were sentenced on the sole basis of information extracted under torture.

73. The source adds that other details provided by the Government, such as the fact that the 19 individuals had been sentenced and some of them still had cases pending before the court or were under investigation for cases other than the main case, are of no relevance. The source wishes to recall that the issue at hand is that all of the 19 individuals were tortured, prosecuted in a trial without basic fair trial guarantees and sentenced to death by the Central Criminal Court of Iraq solely on the basis of their alleged political affiliation with former Vice-President Al-Hashimi, who was also sentenced to death in absentia by the Court, or because their names were mentioned in a coerced confession.

74. The source maintains that, since the Government did not provide sufficient counterarguments against the allegations in the original submission, all of the 19 individuals are being arbitrarily detained and that their detention falls under categories I, III and V of the categories applicable to the consideration of cases submitted to the Working Group.

Discussion

75. At the outset, the Working Group expresses its appreciation to both the source and the Government for their submissions in relation to the arrest, conviction and imprisonment of the 19 above-mentioned individuals, as well as in relation to the political and legal context.

76. The Working Group will consider in turn each of the categories applied by it, mindful that it is entitled to assess the laws and proceedings of the Central Criminal Court of Iraq to determine whether they meet the relevant rules and standards of international law.

77. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (see A/HRC/19/57, para. 68).

78. The Working Group recalls that, where it is alleged that a person has not been afforded, by a public authority, certain procedural guarantees to which he or she was entitled, the burden of proof should rest with the public authority, because the latter is in a better position to demonstrate that it has followed the appropriate procedures and applied the guarantees required by law.⁴

79. At the outset, the Working Group notes with concern a series of cases over the past few years in which the Government of Iraq has subjected its citizens and foreign nationals to secret or incommunicado detention.⁵ Such practices of incommunicado detention effectively place the victims outside the protection of the law and deprive them of any legal safeguards.

80. The Working Group will now consider whether the allegations put forward by the source give the deprivation of liberty of the 19 individuals an arbitrary character that corresponds to category I.

³ Ibid.

⁴ *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010*, p. 639, at para. 55. See also opinions No. 41/2013 (Libya), para. 27, and No. 59/2016 (Maldives), para. 61.

⁵ See opinions No. 29/2016 (Iraq), No. 20/2016 (Iraq) and No. 5/2014 (Iraq).

81. While the response from the Supreme Court, as transmitted to the Working Group by the Government, states that all of the 19 individuals were arrested on the basis of warrants legally issued by a competent judge and investigative bodies before their dissolution, the Working Group was not able to identify the evidence that would substantiate the Government's statement and that would refute the source's prima facie allegations. The Working Group reiterates that a public authority is generally able to demonstrate that it has followed the appropriate procedures and applied the guarantees required by law — if this was the case — by producing documentary evidence of the actions carried out.⁶

82. The Working Group finds that the evidence and statements submitted by the source in the present case are of a compelling nature and that the Government has failed to follow the necessary formal procedures to establish the legal basis for the arrests of the 19 individuals by obtaining a judicially approved warrant.

83. The Working Group further notes the allegations put forward by the source, which have not been challenged by the Government, that 16 of the individuals were subsequently held in incommunicado detention without being presented before a judge for six months in the case of Ms. Al-Husseini and for 10 days in the cases of Messrs. Al-Zubaidi, Al-Halbusi, Al-Mashhadani, Al-Aqidi, Al-Kubaisi, Al-Obeidi, Al-Gehiche, Ali al-Dulaimi, Raad al-Dulaimi, Marwan al-Dulaimi, Arshad al-Dulaimi, Amjad al-Dulaimi, Al-Sharabati, Al-Janabi and Al-Bayati.

84. The Working Group has, in its practice, consistently argued that holding persons incommunicado breaches the right to challenge the lawfulness of detention before a judge.⁷ Articles 10 and 11 of the Universal Declaration of Human Rights also confirm the impermissibility of incommunicado detention. Furthermore, the Committee against Torture has made it clear that incommunicado detention creates conditions that lead to violations of the Convention against Torture.⁸ The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has consistently argued that the use of incommunicado detention is unlawful,⁹ and the Human Rights Committee has, in its general comment No. 35, argued that incommunicado detention that prevents prompt presentation before a judge inherently violates article 9 (3) of the Covenant.

85. In that same vein, the Working Group considers that the arrest of the above-mentioned 19 individuals, as well as the incommunicado detention from the date of arrest to the date of presentation before the judge for 16 of them, lacks a legal basis, in violation of article 9 of the Universal Declaration of Human Rights and article 9 (1) of the Covenant. It therefore falls under category I.¹⁰

86. With regard to category III, the Working Group will now consider whether the 19 individuals have been treated in conformity with the international norms of due process and guarantees of a fair trial during the period of their deprivation of liberty, in accordance with articles 3, 5, 9-10 and 12 of the Universal Declaration of Human Rights and articles 7, 9-10, 14 and 17 of the Covenant. The relevant yet not exhaustive factual and legal considerations, which have not been disputed by the Government, are illustrated below and the relevant factual elements in relation to each of the 19 individuals, as per the source's submission, have been summarized in the annex to the present opinion:

(a) All of the 19 individuals were arrested without a warrant or order (art. 9 of the Universal Declaration of Human Rights and art. 9 (1) of the Covenant);

(b) None of the 19 individuals were informed of the reason for their arrest, nor were they promptly informed of any charges against them following their arrest. Ms. Al-Husseini was not promptly informed in detail of the nature and cause of the charge against her since she was formally charged on 16 June 2012, six months after her arrest (arts. 9-10

⁶ See footnote 5 above.

⁷ See, e. g., opinions No. 53/2016 and No. 56/2016.

⁸ See, e.g., A/54/44, para. 182 (a).

⁹ See e.g., A/54/426, para. 42, and A/HRC/13/39/Add.5, para. 156.

¹⁰ See opinion No. 39/2016, para. 45.

and 11 (1) of the Universal Declaration of Human Rights and arts. 9 (2) and 14 (1) and (3) (a) of the Covenant);

(c) Of the 19 individuals, 16 were not promptly brought before a judge but instead held incommunicado in a secret place of detention outside the protection of law for periods of either six months or 10 days (see para. 83 above), which effectively nullified their right to recognition everywhere as a person before the law and to challenge the lawfulness of their deprivation of liberty (arts. 6 and 9-11 of the Universal Declaration of Human Rights and arts. 9 (3) and 16 of the Covenant);

(d) None of the 19 individuals were treated with humanity and all were subjected to various forms of torture and ill-treatment, 11 including beatings, electrocution, rape and threats of rape directed at mothers and sisters. All of the 19 individuals were forced to sign confessions extracted under severe torture and ill-treatment, which were reportedly presented as the primary or sole source of evidence for their convictions by the Central Criminal Court of Iraq (arts. 3, 5, 11 (1) and 12 of the Universal Declaration of Human Rights and arts. 7, 9 (1), 10 (1), 14 (3) (g) and 17 of the Covenant);

(e) Three of the 19 individuals (Ms. Al-Husseini and Messrs. Marwan al-Dulaimi and Al-Sharabati) had their rights to being presumed innocent until proven guilty and to having their human dignity respected violated, as their coerced confessions were broadcast on television during the trial or while their appeal was pending (art. 11 (1) of the Universal Declaration of Human Rights and arts. 10 (1) and 14 (2) of the Covenant);¹²

(f) All 19 individuals were interrogated without their lawyers being present, in violation of article 19 (4) of the Constitution and articles 123 (b) (2) and (c) and 144 of the Code of Criminal Procedure ensuring the right to an attorney during all phases of the investigation and the trial (arts. 10 and 11 (1) of the Universal Declaration of Human Rights and art. 14 (1) and (3) (b) and (d) of the Covenant);¹³

(g) Six of the 19 individuals (Ms. Al-Husseini and Messrs. Al-Kubaisi, Al-Noaemy, Al-Dulaimi, Al-Ithawi and Al-Sharabati) were held incommunicado and not allowed to contact their lawyers during their trials; in the joint trial of five of the 19 individuals (Messrs. Raad al-Dulaimi, Marwan al-Dulaimi, Arshad al-Dulaimi, Amjad al-Dulaimi and Al-Sharabati), the defence was not allowed to call witnesses and the defendants were prevented from contacting their lawyers to prepare their defence; notably, Mr. Al-Sharabati was not allowed to contact his lawyer throughout the entire length of his trial (arts. 10 and 11 (1) of the Universal Declaration of Human Rights and art. 14 (1) and (3) (b) and (d) of the Covenant);

(h) The defence lawyers for all 19 individuals reportedly faced threats from the security forces in violation of their clients' right to defend themselves through legal assistance of their own choosing. The Government did not provide any information with regard to the allegations of harassment against the lawyers (arts. 10 and 11 (1) of the Universal Declaration of Human Rights and art. 14 (1) and (3) (b) and (d) of the Covenant);

(i) The appeals made to the Court of Cassation by the 19 individuals, all of which are still pending at least five years after the individuals' initial arrest, are in violation of the right to be tried without undue delay (art. 11 (1) of the Universal Declaration of Human Rights and art. 14 (3) (c) of the Covenant).

87. The Working Group underlines that the use of confessions extracted under torture is prohibited. It concurs with the Human Rights Committee when it stated, in paragraph 41 of its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, that article 14 (3) (g):

¹¹ For the details on each individual, please refer to the table in the annex to the present opinion.

¹² All public authorities have the duty to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused (see the Human Rights Committee's general comment No. 35, para. 30). See also *Gridin v. Russian Federation*, communication No. 770/1997, Views adopted on 18 July 2000 and corrigendum, paras. 3.5 and 8.3.

¹³ *Bondar v. Uzbekistan*, communication No. 1769/2008, Views adopted on 25 March 2011, para. 7.4.

guarantees the right not to be compelled to testify against oneself or to confess guilt ... A fortiori, it is unacceptable to treat an accused person in a manner contrary to article 7 of the Covenant in order to extract a confession. Domestic law must ensure that statements or confessions obtained in violation of article 7 of the Covenant are excluded from the evidence

88. The Working Group takes note of the judgment of the International Court of Justice in *Questions relating to the obligation to prosecute or extradite (Belgium v. Senegal)*, in which the Court expressed the opinion that the prohibition of torture was part of customary international law and had become a peremptory norm (*jus cogens*) (para. 99). The Working Group notes that the prohibition of torture is codified in article 5 of the Universal Declaration of Human Rights and articles 7 and 10 of the Covenant.

89. The death sentences passed against the 19 individuals based on confessions extracted under torture are a particularly grave miscarriage of justice and, additionally, constitute a violation of article 6 (2) of the Covenant, which stipulates that a death sentence may be imposed only if it is not contrary to the provisions of the Covenant. According to the safeguards guaranteeing protection of the rights of those facing the death penalty, capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.¹⁴ This is hardly the case in relation to the trial and conviction of the 19 individuals.

90. The Working Group expresses its serious concern at the alleged rape of Ms. Al-Husseini and threats of rape of the mothers and sisters of the Al-Dulaimi brothers during their respective pretrial interrogations, as well as the Government's failure to thoroughly investigate those extremely grave allegations.

91. The Working Group notes with particular concern the allegations by the source that rape and the threat of rape of family members have been employed in order to extract false confessions. The Working Group recalls that the Inter-American Commission on Human Rights¹⁵ and European Court of Human Rights have explicitly held that rape in certain cases constitutes torture in violation of article 5 of the American Convention on Human Rights and article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights).¹⁶ These cases were cited with approval to show that rape may constitute torture by the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, which also considered "the rape of any person to be a despicable act which strikes at the very core of human dignity and physical integrity".¹⁷ It is also the Working Group's firm conclusion that, if the prohibition of torture is part of customary international law and it has become a peremptory norm (*jus cogens*), then the uncommon appellation must also apply a fortiori to the outlawry of rape as torture during deprivation of liberty.

92. With regard to access to legal assistance, the Working Group notes that all 19 individuals were interrogated without their lawyers being present and that some of the individuals were not allowed to contact their lawyers during their trials or were prevented from contacting their lawyers in order to prepare their defence. The Working Group underlines that denial of legal assistance is a violation of article 14 (3) (b) of the Covenant, of principle 17 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and of principle 9 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court.

93. The Working Group also notes with serious concern that the defence lawyers for all 19 individuals reportedly faced threats from the security forces in violation of their clients' right to defend themselves through legal assistance of their own choosing. It underlines that

¹⁴ Economic and Social Council resolution 1984/50, annex, para. 4.

¹⁵ Inter-American Commission on Human Rights, *Raquel Martí de Mejía v. Peru*.

¹⁶ European Court of Human Rights, *Aydin v. Turkey*.

¹⁷ Trial Chamber, *Prosecutor v. Delalić*. See also *Kunarac et al.*

it is the legal and positive duty of the State to protect everyone on its territory or under its jurisdiction against any human rights violation and to provide remedies whenever a violation occurs. The Working Group especially recalls that, according to principle 9 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, “legal counsel shall be able to carry out their functions effectively and independently, free from fear of reprisal, interference, intimidation, hindrance or harassment”.¹⁸

94. In the light of the foregoing, the Working Group concludes that the non-observance of the international norms relating to the right to a fair trial established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by Iraq is of such gravity as to give the deprivation of liberty of the 19 individuals an arbitrary character, falling under category III.

95. The Working Group will examine whether the deprivation of liberty of the 19 individuals constitutes illegal discrimination under international law and whether it therefore falls under category V of the categories applicable to the cases under consideration by the Working Group.

96. While the Government claims that all 19 individuals were tried and sentenced by the Central Criminal Court for cases separate from the main one and that some of them still have cases pending before the Court or under investigation, it is very difficult to believe that their arrest, trial and death sentences have no connection with Mr. Al-Hashimi. The Working Group notes that Mr. Al-Hashimi himself has been sentenced to death in absentia based on his bodyguards’ “confessions” on 9 September 2012 followed by a second death sentence in November 2012 for “plotting to assassinate government officials” and “having ordered bombings and other attacks from 2005 to 2011”.

97. The Working Group cannot but believe that all of the 19 accused had real or perceived connections with Mr. Al-Hashimi. Many of them were his former staff or bodyguards; some were arrested at his residence or offices.

98. The Working Group underlines that the principle of individual criminal responsibility is one of the most fundamental tenets of modern law as it has ousted the odious practice of collective punishment or guilt by association.

99. While formal collective punishment has become rare, collective punishment under the guise of individual punishment with its legal trappings is more difficult to discern on its face. Nevertheless, in the present case, which involves 19 individuals with alleged connections to Mr. Al-Hashimi, it is difficult for the Working Group not to conclude that they have been caught up in apparently neutral but actually discriminatory wheels of justice.

100. The Working Group concludes that only discrimination based on political or other opinion—or, more precisely, what is perceived by the Government as such—that aims at ignoring the equality of human beings may plausibly explain the subversion of the equal protection of the law experienced by the 19 individuals as observed above. Furthermore, the Al-Dulaimi brothers, in this case, did not even know Mr. Al-Hashimi but were arrested anyway based on Mr. Marwan al-Dulaimi’s confession under torture.

101. For these reasons, the Working Group considers that the deprivation of liberty of the 19 individuals with alleged connections with Mr. Al-Hashimi constitutes a violation of article 2 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant on the grounds of discrimination based on political or other opinion aimed at and resulting in ignoring the equality of human beings and that it therefore falls under category V.

102. The Working Group notes that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the fundamental rules of international law may constitute a crime against humanity.

¹⁸ See also opinion No. 14/2017, para. 55.

103. Given that the issues of torture, counter-terrorism measures, violence against women and reprisals and harassment against lawyers are involved in the present case, the Working Group refers these matters to the attention of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the independence of judges and lawyers.

Disposition

104. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Rasha Nemer Jaafar al-Husseini, Ghassan Abbas Jasim al-Kubaisi, Omar Sameer Jawad al-Noaemy, Uday Ghazy Amin al-Ithawi, Yasser Saadi Hassoun al-Zubaidi, Osama Hamid Hammoud al-Halbusi, Asim Jabbar Aath Fayyad al-Mashhadani, Natek Abdullah Ibrahim al-Aqidi, Ahmed Shawki Saoud al-Kubaisi, Hekmat Nasser Hamad Dahi al-Obeidi, Sohail Akram Salman al-Gehiche, Ali Mahmoud al-Dulaimi, Raad Hammoud Salloum Hussein al-Dulaimi, Marwan Mokhayber Ahmed al-Dulaimi, Arshad Hamid Ozgar M'hidi al-Dulaimi, Amjad Hamid Ozgar M'hidi al-Dulaimi, Ahmed Shawki Abdel Karim Mohammed al-Sharabati, Mohammed Hussein Obaid Hussein al-Janabi and Qais Qader Mohammad Ali Abbas al-Bayati, being in contravention of articles 2-3, 5-6 and 9-11 of the Universal Declaration of Human Rights and of articles 2-3, 6-7, 9-10, 14, 16 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, III and V.

105. Consequent upon the opinion rendered, the Working Group requests the Government of Iraq to take the steps necessary to remedy the situation of these 19 individuals without delay and bring it into conformity with the standards and principles set forth in the international norms on detention, including the Universal Declaration of Human Rights and the Covenant.

106. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Ms. Al-Husseini and Messrs. Al-Kubaisi, Al-Noaemy, Al-Ithawi, Al-Zubaidi, Al-Halbusi, Al-Mashhadani, Al-Aqidi, Al-Kubaisi, Al-Obeidi, Al-Gehiche, Ali al-Dulaimi, Raad al-Dulaimi, Marwan al-Dulaimi, Arshad al-Dulaimi, Amjad al-Dulaimi, Al-Sharabati, Al-Janabi and Al-Bayati immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.

107. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the case to the attention of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the independence of judges and lawyers for further action.

108. The Working Group brings to the attention of the Government the calls for it to reform its legislation, in particular the broad definition of terrorism, which is susceptible to wide interpretation, and the fact that the death penalty is mandatory for a wide range of activities defined as terrorist acts in the Anti-Terrorism Law (see CCPR/C/IRQ/CO/5, para. 9).

Follow-up procedure

109. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether the 19 individuals have been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to the 19 individuals;

(c) Whether an investigation has been conducted into the violation of the rights of the 19 individuals and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Iraq with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

110. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

111. The Working Group requests the source and the Government to provide the above information within six months of the date of the transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

112. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.¹⁹

[Adopted on 27 April 2017]

¹⁹ See Human Rights Council resolution 33/30, paras. 3 and 7.

Annex

Summary of factual elements concerning the detainees

	<i>Name</i>	<i>Connection with Tariq al-Hashimi</i>	<i>Date of arrest</i>	<i>Was presented with an arrest warrant</i>	<i>Time after which he or she was brought before a judge</i>	<i>Had access to his or her family or lawyer</i>	<i>Kind of torture or ill-treatment suffered</i>	<i>Was interrogated without a lawyer being present</i>	<i>Date on which forced confession was broadcast</i>	<i>Lawyer received threats</i>	<i>Date on which death sentence was handed down</i>	<i>Status of appeal proceedings</i>
1.	Rasha Nemer Jaafar al-Husseini	Secretary/media officer	27 Dec. 2011	No	Six months	Yes, on 1 Apr. 2012	Beatings, rape	Yes	3 Dec. 2012	Yes	22 Oct. 2014	Pending
2.	Ghassan Abbas Jasim al-Kubaisi	Bodyguard	13 Dec. 2011	No	Next day	Yes, on 15 Jan. 2013	Beatings	Yes	-	Yes	6 Nov. 2012	Pending
3.	Omar Sameer Jawad al-Noaemy	Bodyguard	18 Dec. 2011	No	Next day	Yes, on 15 Jan. 2013	Beatings	Yes	-	Yes	2 Dec. 2012	Pending
4.	Uday Ghazy Amin al-Ithawi	Bodyguard	5 Jan. 2012	No	Next day	Yes, on 15 Jan. 2013	Beatings	Yes	-	Yes	9 Dec. 2012	Pending
5.	Yasser Saadi Hassoun Al Zubaidi	Bodyguard	2 Nov. 2011	No	10 days	No	Beatings, electrocution	Yes	-	Yes	9 Dec. 2012; 29 Dec. 2012	Pending
6.	Osama Hamid Hammoud al-Halbusi	Bodyguard	19 Nov. 2011	No	10 days	No	Beatings, electrocution	Yes	-	Yes	10 Dec. 2012	Pending
7.	Asim Jabbar Aath Fayyad al-Mashhadani	Bodyguard	1 Mar. 2012	No	10 days	No	Beatings, electrocution	Yes	-	Yes	3 Feb. 2014	Pending
8.	Natek Abdullah Ibrahim al-Aqidi	Bodyguard	7 Jan. 2012	No	10 days	No	Beatings, electrocution	Yes	-	Yes	9 Sept. 2012; 3 Dec. 2012	Pending
9.	Ahmed Shawki Saoud al-Kubaisi	Bodyguard's brother	18 Dec. 2011	No	10 days	No	Beatings, electrocution	Yes	-	Yes	23 June 2013	Pending
10.	Hekmat Nasser Hamad Dahi Al Obeidi	Bodyguard	19 Dec. 2011	No	10 days	No	Beatings, electrocution	Yes	-	Yes	5 Dec. 2012	Pending
11.	Sohail Akram Salman al-Gehiche	Secretary	22 Mar. 2012	No	10 days	No	Beatings, electrocution	Yes	-	Yes	30 Sept. 2012	Pending
12.	Ali Mahmoud	Bodyguard	19 Dec. 2011	No	10 days	No	Beatings, electrocution	Yes	-	Yes	9 Dec. 2012	Pending

	al-Dulaimi						on					
13.	Marwan Mokhayber Ahmed al-Dulaimi	Bodyguard	20 Nov. 2011	No	10 days	No	Beatings	Yes	30 Mar. 2013	Yes	6 Nov. 2012	Pending
14.	Amjad Hamid Ozgar M'hidi al-Dulaimi	Mentioned by Marwan al-Dulaimi in a coerced confession	19 Dec. 2011	No	10 days	No	Beatings, electrocution, family rape threats	Yes	-	Yes	6 Nov. 2012	Pending
15.	Arshad Hamid Ozgar M'hidi al-Dulaimi	Mentioned by Marwan al-Dulaimi in a coerced confession	20 Apr. 2012	No	10 days	No	Beatings, family rape threats	Yes	-	Yes	6 Nov. 2012	Pending
16.	Raad Hammoud Salloum Hussein al-Dulaimi	Real estate registration department employee	9 Dec. 2011	No	10 days	No	Beatings	Yes	-	Yes	6 Nov. 2012	Pending
17.	Ahmed Shawki Abdel Karim Mohammed al-Sharabati	Bodyguard patrol head	12 Dec. 2011	No	10 days	One year after arrest	Beatings, electrocution	Yes	19 Dec. 2011; 30 Mar. 2013	Yes	6 Nov. 2012; 2 Dec. 2012	Pending
18.	Mohammed Hussein Obaid Hussein al-Janabi	Bodyguard patrol captain	1 Mar. 2012	No	10 days	No	Beatings, electrocution	Yes	-	Yes	30 Sept. 2012	Pending
19.	Qais Qader Mohammad Ali Abbas al-Bayati	Bodyguard	19 Dec. 2011	No	10 days	No	Beatings, electrocution	Yes	-	Yes	2 Dec. 2012	Pending