



General Assembly

Distr.: General
7 July 2017

Original: English

Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its 78th session, 19-28 April 2017

Opinion No. 33/2017 concerning Rasha Nemer Jaafar Al Hussein 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 Hussein 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 following 19 Iraqi citizens are all employees or persons with alleged personal connections with the former Vice President, Mr. Tariq Al Hashimi. They were all arrested by the Iraqi Security Forces between November 2011 and March 2012, secretly detained, tortured and sentenced to death under the Iraqi Anti-Terrorism Law No. 13 of 7 November 2005 by the Central Criminal Court of Iraq (CCCI):

5. **Ms. Rasha Nemer Jaafar Al Hussein** (جعفرالحسيني نمر رشا), born in 1976, used to work as the personal secretary and media officer of Mr. Al Hashimi. Ms. Al Hussein usually resides in the Zayouna neighbourhood in Baghdad.

6. According to the source, on 27 December 2011, Ms. Al Hussein was arrested at her house, after midnight, by the Intelligence Services of the Internal Security Forces, which did not provide any arrest warrant. She was subsequently detained for a period of three years in the premises of the General Security Directorate in Baladiyat, Baghdad. She was not permitted to receive any visits from her family and lawyer, nor to communicate with them until the beginning of April 2012.

7. Furthermore, during the first three months, 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 CCCI a list of detainees, including Ms. Al Hussein, who had been subjected to torture, demanding an investigation into these cases. On 1 April 2013, the CCCI reportedly dismissed the case of Ms. Al Hussein 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 Hussein referred to the General Prosecutor of the CCCI that she had been tortured by three named officials when she was detained in the premises of the General Security Directorate in Al Baladiyat, Baghdad. 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 Hussein was first referred to the CCCI and notified of the charges held against her for having “smuggled silenced weapons into Mr. Al Hashimi’s house in Al Yarmouk” on the basis of her confessions extracted under torture and in the absence of any material evidence.

10. On 22 October 2014, the CCCI Al Karkh Branch in Baghdad, found her guilty of “having provided and transferred silenced guns for terrorist ends”, qualified as a terrorist act under articles 2.1, 2.3 and 2.7 of the Anti-Terrorism Law No. 13 of 2005. The same court subsequently sentenced her to death on the basis of article 4 of that law, which provides for the death penalty for the above-mentioned terrorist acts. Her lawyer filed an appeal on 11 November 2014, which is still pending to date.

11. **Mr. Ghassan Abbas Jasim Al Kubaisi** (الكبيسي جاسم عباس غسان), born in 1977, is married and the father of a child. He usually resides in Salah Al Din Province, Al Alam District, Baghdad. He works as the personal bodyguard of Mr. Al Hashimi.

12. **Mr. Omar Sameer Jawad Al Noaemy** (النعمي عمر سمير جواد), born in 1980, is married and has a child. He usually resides in Zayouna neighbourhood, Baghdad. He works as the personal bodyguard of Mr. Al Hashimi.

13. **Mr. Uday Ghazy Amin Al Ithawi** (العثاوي أمين غازي عدي), born in 1975, is married and the father of three children. He usually resides in Al Mansour District, Baghdad. He works as the personal bodyguard of Mr. Al Hashimi.

14. **Mr. Yasser Saadi Hassoun Al Zubaidi** (الزبيدي حسون سعدي ياسر), born in 1985, usually resides in Diyala, Iraq. Mr Al Zubaidi used to work as the personal bodyguard of Mr. Al Hashimi.

15. **Mr. Osama Hamid Hammoud Al Halbusi** (الحلبوسي حمود حميد أسامة), born in 1985, usually resides in the Ghazaliya neighbourhood in the western outskirts of Baghdad. Mr. Al Halbusi used to work as the personal bodyguard of Mr. Al Hashimi.
16. **Mr. Asim Jabbar Aath Fayyad Al Mashhadani** (فياض عيثة جبار عاصم) (المشهداني) was born in 1981, He used to work as the personal bodyguard of Mr. Al Hashimi.
17. **Mr. Natek Abdullah Ibrahim Al Aqidi** (العكيدي إبراهيم عبدالله ناطق), born in 1974, usually resides in Suwayrah, Iraq. He is married and used to work as the personal bodyguard of Mr. Al Hashimi.
18. **Mr. Ahmed Shawki Saoud Al Kubaisi** (الكبيسي سعود شوقي أحمد), 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. **Mr. Hekmat Nasser Hamad Dahi Al Obeidi** (العيدي ضاحي حمد ناصر حكمت), born in 1978, usually resides in Al Mahmudiya, a city south of Baghdad, Iraq. He used to work as Mr. Al Hashimi's personal bodyguard.
20. **Mr. Sohail Akram Salman Al Gehiche** (الجهيشي سلمان أكرم سهيل), born in 1981, is married and normally resides in Suwayrah, southeast Baghdad. Mr. Al Gehiche used to work as Mr. Al Hashimi's secretary.
21. **Mr. Ali Mahmoud Al Dulaimi** (الدليمي محمود علي), born in 1979, is married and usually resides in Al Mada'in, a district of Baghdad Governorate. He used to work as Mr. Al Hashimi's bodyguard.
22. **Mr. Marwan Mokhayber Ahmed Al Dulaimi** (الدليمي ضيفان أحمد مخيبر مروان) usually resides in Al Mada'in. He used to work as Mr. Al Hashimi's bodyguard.
23. **Mr. Amjad Hamid Ozgar M'hidi Al Dulaimi** (الدليمي مهدي أزغير حامد أمجد), born in 1988, works as a farmer. He is the brother of Mr. Arshad Hamid Ozgar M'hidi Al Dulaimi.
24. **Mr. Arshad Hamid Ozgar M'hidi Al Dulaimi** (الدليمي مهدي أزغير حامد أرشد), born in 1991, usually resides in Al Mada'in. He used to work as a farmer.
25. **Mr. Raad Hammoud Salloum Hussein Al Dulaimi** (الدليمي حسين سلوم حمود رعد), born in 1981, usually resides in Al Mada'in district, Baghdad. He used to work in the Government's Real Estate Registration Department.
26. **Mr. Ahmed Shawki Abdel Karim Mohammed Al Sharabati** (شوقي أحمد) (الشرباتي أحمد الشرباتي محمد عبد الكريم), born in 1970, usually resides in Al-Adhamiyah, Fahama, Baghdad. He used to be the head of Mr. Al Hashimi's bodyguard patrol.
27. **Mr. Mohammed Hussein Obaid Hussein Al Janabi** (حسين عبيد حسين محمد) (الجنابي), born in 1973, usually resides in Al Latifiya, southern Baghdad. He used to be the captain of Mr. Al Hashimi's bodyguard patrol.
28. **Mr. Qais Qader Mohammad Ali Abbas Al Bayati** (عباس علي محمد قادر قيس) (البياتي), born in 1977, used to reside in Kirkuk and work as a bodyguard of Mr. Al Hashimi.

Background

29. The source submits that these cases illustrate a pattern of arbitrary detention of employees or persons with alleged connections with the former Vice President of Iraq, Mr. Al Hashimi.
30. Mr. Al Hashimi was a leading member of the secular Al Iraqiya coalition and former Prime Minister Al Maliki's main electoral rival. He was a well-known critical voice of what he saw as Mr. Al Maliki's attempts to centralise power.
31. According to the source, in December 2011, in an escalation of tensions between Mr. Al Maliki and Mr. Al Hashimi, at odds over the formation of a unity government, the Iraqi Security Forces, under the orders of former Prime Minister Al Maliki, raided Mr. Al

Hashimi's house, but could not find him there. He had left Baghdad on 18 December 2011 and initially fled to the semi-autonomous Kurdistan region. He 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 Interior announced during a press conference that an arrest warrant had been issued against Mr. Al Hashimi for having "orchestrated bombing attacks". During the conference, confessions at gunpoint of three of his bodyguards, who had been severely tortured and were still bearing signs of torture, claiming that Mr. Al Hashimi had orchestrated such attacks, were aired on the state-run channel Al Iraqiya.

33. According to the source, on 9 September 2012, Mr. Al Hashimi was sentenced to death *in absentia* by the CCCI, on the basis of his bodyguards' coerced testimonies. In November 2012, the CCCI 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 Prime Minister Mr. Al Maliki, carried out dozens of arrests targeting persons allegedly close to Mr. Al Hashimi, and among them are the individuals listed above. They were reportedly all taken to secret locations where they were severely tortured and forced to sign confessions incriminating themselves and Mr. Al Hashimi, on the basis of which they were later sentenced to death under the Anti-Terrorism Law No. 13 of 2005.

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

Category I – Absence of legal basis justifying the deprivation of liberty

36. The source refers to article 9 (1) of the International Covenant on Civil and Political Rights (the Covenant), ratified by Iraq in 1971, which provides that no one shall be deprived of liberty except in accordance with legal procedures. However, according to the source, all 19 individuals were arrested without an arrest 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 Hussein was brought before a judicial authority to confirm the charges against her six months after her arrest, while Messrs. 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 were brought before a judge 10 days after their arrest.

38. The source states that a period of custody lasting for 10 days, and six months in the case of Ms. Al Hussein, without judicial oversight, far exceeds the time limit set forth in the Iraqi Constitution (article 19.13) and the Criminal Procedure Code (article 123.a) of 24 hours which can be extended only once for additional 24 hours. The source notes that this duration has been recognised in international human rights law as well, including in general comment no. 35 of the Human Rights Committee (CCPR/C/GC/35, para. 33).

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 liberty in violation of the procedures established by law and their detention for 10 days (six months for Ms. Al Hussein) lacks any legal basis.

Category III – Non-observance of international fair trial norms

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

41. In all the cases reported, the source alleges that 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 Iraqi Criminal Procedure Code as well as article 9 (2) of the Covenant.

42. Furthermore, Ms. Al Hussein and Messrs. Ghassan Al Kubaishi, Omar Al Noaemy, Abdulrazak Al Duleimi, Uday Al Ithawi and Ahmed 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 Hussein. The source submits that this represents a clear violation of article 37, l.c. of the Iraqi Constitution which prohibits the use of torture; articles 7 and 10 of the Covenant; as well as of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to which Iraq has been a party since 2001.

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

45. Since no inquiry was opened into the allegations of torture, even upon specific request such as in the case of Ms. Al Hussein, the source submits that article 12 of the CAT was also violated. The source refers to the review by the Committee against Torture of Iraq in September 2015 where the Committee expressed its concern over the use of coerced confessions and recommended that Iraq should 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 (CAT/C/IRQ/CO/1, para. 22).

46. The source further adds that the forced confessions of Ms. Al Hussein and Messrs. Marwan Al Dulaimi and Ahmed Al Sharabati were broadcasted publicly on TV, and that this represents a violation of the principle of the presumption of innocence as enshrined in article 14 (2) of the Covenant, as well as of their inherent dignity. According to the source, this practice of airing confessions on TV is widespread in Iraq, to the extent that the state controlled channel Al Iraqiya runs a series, "Terror in the hands of justice" where alleged "terrorists" are brought in to "confess their crimes".

47. The source also points out that the rights of the above individuals to defence were violated. In none of the cases reported, were the victims allowed to have their lawyers present during their interrogation or to have their assistance during the investigative stage. This violates article 19.4 of the Iraqi Constitution and 123.b.ii of the Iraqi Criminal Code which guarantees the right to defence in all phases of the investigation and trial, as well as article 14 (3) (b) and 14 (3) (d) of the Covenant.

48. In addition, during the joint trial of five of the individuals, notably Messrs. 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 and Ahmed Shawki Abdel Karim Mohammed Al Sharabati, the defence was reportedly not allowed to call its witnesses. The source highlights that this adds to the fact that the victims were not allowed to be in contact with their lawyers to prepare their defence, and in particular Mr. 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 defence as stipulated in article 14 (3) (e) of the Covenant.

49. The source underlines that the lawyers in charge of the cases reported above have all referred to being 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 protect 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 judicial system which "presents significant risks of grievous and irreversible carriage of justice" has been denounced by the United Nations¹ as a violation of the right to life.

51. The source further recalls that the CCCI is commonly known for not meeting international standards of due process and fair trial as it regularly occurs that defendants are not provided with the effective means to defend themselves and confessions obtained under torture or alleged "intelligence" reports are heavily relied upon and are not supported by further evidence.

52. Finally, the source notes with concern that the CCCI can prosecute cases on the basis of the Anti-Terrorism Law which has been criticised by the Human Rights Committee for its broad definition of terrorism (CCPR/C/IRQ/CO/5, para. 9). Given that such a broad law is susceptible to wide interpretation, the Committee recommended that it be restricted and that measures to combat terrorism be fully compatible with the Covenant. The source notes that it is all the more concerning 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 individuals an arbitrary character, falling under category III of the categories applicable to cases under consideration by the Working Group.

Category V – Detention for the reason of discrimination

54. The source submits that the arrests and detention of the above-mentioned individuals are grounded on discrimination based on their alleged political affiliation due to their links with former Vice President Mr. Al Hashimi.

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

56. Additionally, the source notes that all the victims have been charged under the Anti-Terrorism Law No. 13 of 2005, including Mr. Al Hashimi himself. The source highlights that according to international human rights law organisations, this 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 individuals were sentenced to death by the CCCI on the sole basis of confessions extracted under torture and after heavily flawed trials and that this is an indication of the politicised nature of their prosecution.

58. In light of the above, the source submits that the present cases of deprivation of liberty result from reasons of discrimination due to the victims' alleged political opinion or affiliation in violation of international law, thereby falling under category V of the categories applicable to cases under consideration by the Working Group.

¹ UNAMI, OHCHR, *Report on the Death Penalty in Iraq*, Baghdad, October 2014, p.26.

Response from the Government

59. On 27 January 2017, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure, requesting the Government to provide detailed information by 27 March 2017 about the current situation of the 19 above 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 its compatibility with Iraq's obligations under international human rights law, and in particular with regard to the treaties ratified by the State. Moreover, the Working Group called upon the Government to ensure the physical and mental integrity of these individuals.

61. In its response dated 15 March 2017, the Government of Iraq transmits the following information from the Supreme Court:

62. On 6 December 2011, a car bomb set to explode was seized in the area of Al-Mada'in, in the Governorate of Wasit Governorate (formerly Kut Governorate) based upon accurate intelligence information; the convicted accused, Marwan Mokhayber Ahmed Didan Al Dulaimi, a former bodyguard, was arrested while in possession of a letter from the accused and convicted former Vice President of the Republic, Tariq Al Hashimi, who was supervising the preparation of the bombing with other terrorists through his relationship with officers and employees of the Presidential Regiment. Based on the confessions of Mr. Al Dulaimi, other investigation procedures were taken 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 and other accused persons were investigated by the dissolved investigation bodies mentioned above, without any preliminary investigations by the competent security authorities, and in the presence of the General Prosecution, lawyers, agents and persons assigned on behalf of the accused.

65. According to the Government's response, all of the 19 accused persons were examined at 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 for cases other than the main case, and some of them still have cases pending before the court or under investigation. In addition, all of the 19 accused are being detained at 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 "having organised a car bomb terrorist attack" against Mr. Marwan Mokhayber Ahmed Didan Al Dulaimi was confirmed by the CCCI on the sole basis of a testimony delivered by members of the Iraqi Security Services in addition to his own, which was extracted under torture and uncorroborated by any material evidence.

69. Regarding the Government's statement that "[b]ased on his confessions, other investigation procedures were taken in accordance with the law", the source points out that these confessions were extracted under torture and then broadcasted on TV in violation of the principle of the presumption of innocence. Therefore, it was on the basis of information extracted under torture that other individuals were brought to trial, such as the two brothers, Messrs. Amjad and Arshad Al Dulaimi, who did not even personally know or have any relationship with Mr. Al Dulaimi or Mr. Al Hashimi.

70. The source also adds that, contrary to the Government's claim, none of the 19 individuals had 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 those visits could have been carried out before acts of torture were perpetrated, or much later when the wounds resulting from torture had already disappeared. In this respect, the source refers to the UN report on the situation of human rights in Iraq where it is observed that suspects are commonly denied access to a doctor while in police custody during which interrogation and torture occur.² The source states that it could be the case that medical reports did not mention injuries resulting from torture at all, or acts of torture as their cause.

72. According to the source, it is moreover likely that, even if the mentioned medical reports admitted the presence of injuries caused by acts of torture, the adjudicating authorities would not have taken them into consideration, as this is reportedly a documented practice in Iraq.³ The source recalls that the 19 individuals in the present case 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 have 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 CCCL solely on the basis of their alleged political affiliation with former Vice President Tariq Al Hashimi, who himself was sentenced to death in absentia by the CCCL, or on the basis of their names being mentioned in a coerced confession.

74. The source maintains that, since the Government did not provide sufficient counterargument against the allegations in the original submission, all of the 19 individuals are being arbitrarily detained and 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 individuals, as well as their 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 court 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.⁴

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

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.

³ Ibid.

⁴ See the report of the Working Group on Arbitrary Detention, 26 December 2011, A/HRC/19/57, para. 68).

better position to demonstrate that it has followed the appropriate procedures and applied the guarantees required by law.⁵

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.⁶ 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 constitute a deprivation of liberty that corresponds to category I.

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 arrest 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 in order to 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.⁷

82. The Working Group finds that the evidence and statements submitted by the source in the present case are of a compelling nature and the Government has failed to undertake the necessary formal procedures to establish the legal basis for the arrests of all 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 individuals were subsequently held in incommunicado detention without being presented before a judge for various lengths of time, notably six months in the case of Ms. Al Hussein and 10 days for Messrs. 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.

84. The Working Group in its practice has always consistently argued that holding persons incommunicado breaches the right to challenge the lawfulness of detention before a judge.⁸ 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 the violations of the CAT.⁹ The UN Special Rapporteur on torture has consistently argued that use of incommunicado detention is unlawful;¹⁰ while the Human Rights Committee in its general comment No. 35 has argued that incommunicado detention that prevents prompt presentation before a judge inherently violates paragraph 3 [of article 9 of the Covenant].¹¹

85. In this vein, the Working Group considers that the arrest of all 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

⁵ See Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010, p. 661, para. 55. See also Opinions No. 41/2013 (Libya), para. 27 as well as No. 59/2016 (Maldives); para. 61.

⁶ See Opinions No. 29/2016 (Iraq); No. 20/2016 (Iraq); and No. 5/2014 (Iraq).

⁷ See footnote 4 above.

⁸ See, e.g., opinions No. 53/2016 and No. 56/2016.

⁹ See e.g., A/54/44, para. 182 (a)).

¹⁰ See e.g. A/54/426, para. 42, and A/HRC/13/39/Add.5, para. 156.

¹¹ See Human Rights Committee, general comment no. 35, CCPR/C/GC/35, at para. 25.

Declaration of Human Rights and article 9 (1) of the Covenant. It therefore falls under category I applicable to the consideration of cases submitted to the Working Group.¹²

86. With regard to category III, the Working Group will now consider whether the 19 individuals have been provided 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, not 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 annex 1 to the present opinion:

(i) All of the 19 individuals were arrested without an arrest warrant or order (article 9 of the Universal Declaration of Human Rights and article 9 (1) of the Covenant);

(ii) None of the 19 individuals were informed of the reasons for their arrest nor promptly informed of any charges against them following their arrest. Ms. Al Hussein was not promptly informed in detail of the nature and cause of the charge against her in her criminal case since she was formally charged on 16 June 2012, six months after her arrest: (articles 9, 10 and 11 (1) of the Universal Declaration of Human Rights and articles 9 (2), 14 (1) and (3) (a) of the Covenant);

(iii) 16 of the individuals were not promptly brought before a judge, but instead held incommunicado at a secret place of detention outside the protection of law for periods of 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 (articles 6, 9, 10, and 11 of the Universal Declaration of Human Rights and articles 9 (3) and 16 of the Covenant);

(iv) None of the 19 individuals were treated with humanity and were subjected to various forms of torture and ill-treatment¹³, including beatings, electrocution, rape, and threats to rape their mothers and sisters. All 19 individuals were forced to sign confession under severe torture and ill-treatment, which were reportedly presented as primary or sole source of evidence for their convictions by the CCCI (articles 3, 5, 11 (1) and 12 of the Universal Declaration of Human Rights and articles 7, 9 (1), 10 (1), 14 (3) (g) and 17 of the Covenant);

(v) Three of these individuals, notably Ms. Al Hussein and Messrs. Marwan Al Dulaimi and Ahmed Al Sharabati had their right to presumption of innocence and human dignity violated as their coerced confessions were broadcasted publicly on TV during the trial or while their appeal was pending¹⁴ (article 11 (1) of the Universal Declaration of Human Rights and articles 10 (1) and 14 (2) of the Covenant);

(vi) All 19 individuals were interrogated without the presence of their lawyers in violation of article 19 (4) of the Constitution and articles 123 (b) (2) and (c) and 144 of the Criminal Procedure Code ensuring the right to an attorney in all phases of investigation and trial¹⁵ (articles 10 and 11(1) of the Universal Declaration of Human Rights and article 14 (1) and (3) (b) and (d) of the Covenant);

(vii) Six of the 19 individuals, Ms. Al Hussein and Messrs. Ghassan Al Kubaisi, Omar Al Noaemy, Abdulrazak Al Duleimi, Uday Al Ithawi and Ahmed Al

¹² See Opinion No. 39/2016 (Jordan), para. 45.

¹³ For the details in relation to each individual, please refer to the table in annex 1 of the present opinion.

¹⁴ It is a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused (CCPR/C/GC/35, para. 30). See also Human Rights Committee, Gridin v. Russian Federation, Communication No. 770/1997, 18 July 2000, paras. 3.5 and 8.3.

¹⁵ Human Rights Committee, Bondar v. Uzbekistan, Communication No. 1769/2008, 25 March 2011, para. 7.4.

Sharabati, were held incommunicado and not allowed to contact their lawyers during their trials; in the joint trial of five of the 19 individuals, notably Messrs. 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 and Ahmed Al Sharabati, the defence was not allowed to call its witnesses and the defendants were prevented from contacting their lawyers to prepare their defence, with Mr. Al Sharabati not being allowed to contact his lawyer throughout the entire length of his trial (articles 10 and 11 (1) of the Universal Declaration of Human Rights and article 14 (1) and (3) (b) and (d) of the Covenant);

(viii) The defence lawyers for all of the 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. (articles 10 and 11 (1) of the Universal Declaration of Human Rights and article 14 (1) and (3) (b) and (d) of the Covenant);

(ix) Appeals to the Court of Cassation by the 19 individuals which are all still pending after at least five years after their initial arrest violated their right to be tried without undue delay (article 11(1) of the Universal Declaration of Human Rights and article 14 (3) (c) of the Covenant).

87. The Working Group underlines that the use of confessions extracted from torture is prohibited. The Working Group concurs with the Human Rights Committee, when it stated, in its general comment No. 32 (2007), that:

article 14, paragraph 3 (g), 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... (para. 41).

88. The Working Group also takes note of the judgement by 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 is part of customary international law and it has become a peremptory norm (*jus cogens*) (para. 99). The Working Group further 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 confession extracted under torture is a particularly grave miscarriage of justice and additionally engages violation of article 6 (2) of the Covenant, stipulating 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.¹⁶ This is hardly the case in relation to the trial and conviction of the 19 individuals.

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

91. The Working Group notes with particular concern the allegations by the source that rape or the threat to rape family members have been employed in order to extract false confessions. The Working Group recalls that the Inter-American Commission on Human Rights¹⁷ and the European Court of Human Rights have explicitly held that rape in certain

¹⁶ See the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by Economic and Social Council resolution 1984/50 of 25 May 1984, para. 4.

¹⁷ Inter-American Commission on Human Rights, *Raquel Martí de Mejía v. Perú*, Case 10.970, Report No. 5/96, OEA/Ser.L/V/II.91 Doc. 7 at 157 (1996).

cases constituted torture in violation of article 5 of the American Convention and article 3 of the European Convention.¹⁸ These cases were cited with approval to show that rape may constitute torture by the International Criminal Tribunal for the former Yugoslavia 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”.¹⁹ 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 the presence of their lawyers and that some of the individuals were not allowed to contact their lawyers during their trials or prevented from contacting their lawyers to prepare their defence. The Working Group underlines that denial of legal assistance is a violation of article 14 (3) (b) of the Covenant as well as principle 17.1 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and principle 9 of the UN Basic Principles and Guidelines on Remedies and Procedures on the Rights 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 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 still occurs. The Working Group especially recalls that the UN Basic Principles and Guidelines on Remedies and Procedures on the Rights of Anyone Deprived of their Liberty to Bring Proceedings before a Court state that:

‘Legal counsel shall be able to carry out their functions effectively and independently, free from fear of reprisal, interference, intimidation, hindrance or harassment’.²⁰

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 lastly examine whether the deprivation of liberty of the 19 individuals constitutes illegal discrimination under international law for the purpose of 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 former Vice President Tariq 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.

¹⁸ European Court of Human Rights, *Aydin v. Turkey*, Application No. 23178/94, 25 September 1997.

¹⁹ Trial Chamber, *Prosecutor v. Delalić*, Judgment, IT-96-21-T, 16 November 1998, paras. 475-496. See also *Kunarac et al.*, Appeal Judgement, 12 June 2002, para. 150.

²⁰ *Ibidem*, principle 9. See also opinion No. 14/2017 (Cameroon), para. 55.

98. The Working Group underlines that the principle of individual criminal responsibility is one of the most fundamental tenets of modern law that 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 of the 19 individuals with alleged connections with Mr. Al Hashimi, it is difficult for the Working Group not to conclude that they have been subjected to facially neutral but 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 towards 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 was 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 that aimed towards and resulted in ignoring the equality of human beings, falling under category V.

102. The Working Group further 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 crimes against humanity.

103. Given that the issues of torture, counter-terrorism measures, violence against women, and the reprisals and harassment against lawyers are involved in this case, the Working Group wishes to refer these matters to the attention of the Special Rapporteurs on torture, counter-terrorism and human rights, violence against women, and 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 Hussein, Ghassan Abbas Jasim Al Kubaisi, Omar Sameer Jawad Al Noaemy, Mr. 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, 9, 10 and 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 International Covenant on Civil and Political Rights.

106. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Rasha Nemer Jaafar Al Hussein, Ghassan Abbas Jasim Al Kubaisi, Omar Sameer Jawad Al Noaemy, Mr. 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 immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.

107. In accordance with para. 33(a) of its methods of work, the Working Group refers the case to the attention of the Special Rapporteurs on torture, counter-terrorism and human rights, violence against women, and the independence of judges and lawyers for further actions.

108. The Working Group further brings to the attention of the Government the calls for reform of a broad definition of terrorism susceptible to wide interpretation and mandatory death penalty for a wide range of activities defined as terrorist acts in the Anti-Terrorism Law No. 13 of 2005.²¹

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.²²

[Adopted on 27 April 2017]

²¹ See Human Rights Committee, Concluding observations on the fifth periodic report of Iraq, 3 December 2015, CCPR/C/IRQ/CO/5, para. 9.

²² See Human Rights Council resolution 33/30, paras. 3 and 7.

Annex 1

	Name	Connection with Tariq Al Hashimi	Arrest	Arrest warrant	Brought before judge	Family/ lawyer access	Torture or ill-treatment	Interrogated without lawyer	Airing of forced confession	Threats against lawyer	Death Sentence	Appeal
1	Ms. Rasha Nemer Jaafar Al Hussein	Secretary/ media officer	27 Dec 2011	N	16 Jun 2012 (6 months)	1 Apr 2012	Beatings Rape	Y	3 Dec 2012	Y	22 Oct 2014	Pending
2	Mr. Ghassan Abbas Jasim Al Kubaisi	Bodyguard	13 Dec 2011	N	Next day	15 Jan 2013	Beatings	Y		Y	6 Nov 2012	Pending
3	Mr. Omar Sameer Jawad Al Noaeny	Bodyguard	18 Dec 2011	N	Next day	15 Jan 2013	Beatings	Y		Y	2 Dec 2012	Pending
4	Mr. Uday Ghazy Amin Al Ithawi	Bodyguard	5 Jan 2012	N	Next day	15 Jan 2013	Beatings	Y		Y	9 Dec 2012	Pending
5	Mr. Yasser Saadi Hassoun Al Zubaidi	Bodyguard	2 Nov 2011	N	10 days after arrest		Beatings Electrocut ion	Y		Y	9 Dec 2012; 29 Dec 2012	Pending
6	Mr. Osama Hamid Hammoud Al Halbusi	Bodyguard	19 Nov 2011	N	10 days after arrest		Beatings Electrocut ion	Y		Y	10 Dec 2012	Pending
7	Mr. Asim Jabbar Aath Fayyad Al Mashhadani	Bodyguard	1 Mar 2012	N	10 days after arrest		Beatings Electrocut ion	Y		Y	3 Feb 2014	Pending
8	Mr. Natek Abdullah Ibrahim Al Aqidi	Bodyguard	7 Jan 2012	N	10 days after arrest		Beatings Electrocut ion	Y		Y	9 Sep 2012; 3 Dec 2012	Pending
9	Mr. Ahmed Shawki Saoud Al Kubaisi	Bodyguard's brother	18 Dec 2011	N	10 days after arrest		Beatings Electrocut ion	Y		Y	23 Jun 2013	Pending
10	Mr. Hekmat Nasser Hamad Dahi Al Obeidi	Bodyguard	19 Dec 2011	N	10 days after arrest		Beatings Electrocut ion	Y		Y	5 Dec 2012	Pending
11	Mr. Sohail Akram Salman Al Gehiche	Secretary	22 Mar 2012	N	10 days after arrest		Beatings Electrocut ion	Y		Y	30 Sep 2012	Pending
12	Mr. Ali Mahmoud Al Dulaimi	Bodyguard	19 Dec 2011	N	10 days after arrest		Beatings Electrocut ion	Y		Y	9 Dec 2012	Pending
13	Mr. Marwan Mokhayber Ahmed Al Dulaimi	Bodyguard	20 Nov 2011	N	10 days after arrest		Beatings	Y	30 Mar 2013	Y	6 Nov 2012	Pending
14	Mr. Amjad Hamid Ozgar M'hidi Al	Mr. Marwan Al Dulaimi's coerced confession	19 Dec 2011	N	10 days after arrest		Beatings Electrocut ion Family	Y		Y	6 Nov 2012	Pending

	Dulaimi						rape threat					
15	Mr. Arshad Hamid Ozgar M'hidi Al Dulaimi	Mr. Marwan Al Dulaimi's coerced confession	20 Apr 2012	N	10 days after arrest		Beatings Family rape threat	Y		Y	6 Nov 2012	Pending
16	Mr. Raad Hammoud Salloum Hussein Al Dulaimi		9 Dec 2011	N	10 days after arrest		Beatings	Y		Y	6 Nov 2012	Pending
17	Mr. Ahmed Shawki Abdel Karim Mohammed Al Sharabati	Bodyguard patrol head	12 Dec 2011	N	10 days after arrest	1 year	Beatings Electrocution	Y	19 Dec 2011; 30 Mar 2013		6 Nov 2012; 2 Dec 2012	Pending
18	Mr. Mohammed Hussein Obaid Hussein Al Janabi	Bodyguard patrol captain	1 Mar 2012	N	10 days after arrest		Beatings Electrocution	Y		Y	30 Sep 2012	Pending
19	Mr. Qais Qader Mohammad Ali Abbas Al Bayatiand	Bodyguard	19 Dec 2011	N	10 days after arrest		Beatings Electrocution	Y		Y	2 Dec 2012	Pending