

**ARAB COMMISSION FOR HUMAN RIGHTS  
COMMISSION ARABE DES DROITS HUMAINS**

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**Violation of Rights and Breach of the Prisoner's Basic Guarantees**

**Urgent Appeal to Comply with the International Treaties and Supporting a  
Fair Trial in the Case Known as (Al-Abdali Cell), Registered Under No.  
51/2015 – State Security, along with a Remarks on the Judgment issued on  
12/1/2016 in Kuwait**

Pursuant to the judicial inspection implemented by Chairperson of the Paris –based Arab Commission for Human Rights, and with the representation of Arab Human Rights organizations in a court hearing of the case registered under No. 51/2015 (State Security – Kuwait), and following the issuance of the judgment dated on 12/01/2016 with carefully reading thereof, we want to appeal to the media as well as the relevant United Nations institutions in order to stop the violations of the security authorities for the rights of prisoners and prevent the breaches of the due process followed in the fair trials in State of Kuwait.

After the careful reading of the above mentioned wording of the court sentence, which consists of 186 pages, (against twenty–six accused persons; three of them have been tried in absentia), the Arab Commission for Human Rights and the other Human Rights Organizations signing on this appeal hereby present the following remarks :

1– With the integrity of the elements of this case and as per our available data, we express our concern of the judgment’s spiraling out of the legal and human rights scope, in view of a number of the serious documents and very sensitive reports which confirms that some accused persons have been tortured (in order to confess with the charges brought against them, which were denied by them, including having a contact with Iran and Hezbollah as well as the preparation of anti–state attacks). These documents include the Forensic Report No. 21 T of 2015 in the Case No. 51/2015 (State Security – Kuwait, Ministry of Interior – General Department of Criminal Evidences) which was signed by five physicians on 20/9/2015, and the Forensic Report No. 370 E/2015 which was issued by the forensic physician “Dr. Seif El–Din Abdulrahman” from the same Authority on 30/8/2015. All of these reports which were attached to the case have clearly showed visible injuries of some of the detainees and confirmed that they have been

tortured during their detention. This matter has been stressed within the sayings of the accused persons before the Judicial Council during the trial sessions, and confirmed by the Defense Attorneys.

2- The inherent dignity of the human person requires from the executive and judicial authorities to take into account the serious evidences of the subjection of some detainees to torture or inhuman or degrading treatment or punishment. Aside from this will be considered a disregarding to the Convention against Torture (which was approved by the General Assembly of the United Nations and raised for signing, endorsing and joining thereof in the Resolution No 39/46 dated on December 10<sup>th</sup>, 1984; to which State of Kuwait is a party).

The judgment which was issued on 12/01/2016 didn't take into account the above mentioned medical reports and the official evidences regarding the referral of some detainees to the Military Hospital during the investigation with them without attaching their Medical File in order to review it by the Judicial Council. The above stated judgment didn't pay an attention to the request of the lawyers to check the CCTV Record in order to show and make sure of the detainees' subjection to torture and the other ways of inhuman or degrading treatment or punishment.

Hence: The organizations signing herein express about their deep concern regarding this gross irregularities and the ignorance of the contained facts in a way which prejudice the rights of the accused persons and discredit the image of the Kuwaiti Judiciary and State of Kuwait; the member in the Human Rights Council.

3- The issued judgment went beyond the rules of fair trials, as occurred in many previous cases, due to the non-existence of lawyers in all the procedures of investigation.

– Therefore, the Human Rights Organizations signing herein asks the legislative authority in State of Kuwait to legalize a law which should oblige the executive authorities not to investigate any accused or inquiring him/her without the presence of lawyer.

– It also stresses on the necessity of compliance with the legal and constitutional basics and controls during the investigations in criminal charges and adjudging thereof in a way which conforms to the international standards. In the present case, lawyers have been prevented from the presence with their principals during the investigation, as in the case of Mr. Zuhair Abdelhadi Al-Mahmeed, who has appointed lawyers for the defense since 1986 according to an Official Power of Attorney, but they were prevented from attending the investigations on flimsy grounds such as

approaching the midnight and the impossibility, as per the investigator's claim, to provide a lawyer at this time. As evidence to support our point of view/claim, this accused had been acquitted of the charges brought against him which were liable to death by hanging.

4– Our organizations condemn the acts of violence and unjustified confiscation executed by the authorities during inspecting the detainees' houses and household goods without presenting the legal permission. Otherwise, an official note/memorandum should be issued in order to allow the conduction of a reasonable inspection for suppletory reasons under oath or acknowledgment, and it should particularly include a description of the place which is required to be inspected, the persons who will be detained as well as the things which will be confiscated. By reviewing the official report of experts that was issued from the Ministry of Justice under No. Kh. H / 1848 / 2015 on 26/11/2015 and supported by a judgment issued on 11/1/2016 in the Case No. 874/2015 Urgent / 20, it is showed that there is a statement of facts for the residence of the detainee: Zuhair Abdelhadi Al-Mahmeed, in which there is a data about subversion, breaking and destroying of a house for the detainee: Zuhair Abdelhadi Al-Mahmeed.

It also surprises us the explanation of the referred judgment to such violations with an unreasonable justifications that contradict with the

simplest human rights and applicable laws, which deemed as a gross breach of the rules include attaining the justice for the individual and state and society, and we also confirm that the state trial doesn't fulfill the standards of the right legal procedures sought and expected from the judiciary.

5– Our organizations deny the judgment's inclusion of a political, ideological and private views, away of the case's documents, without any meaningful, visible and certain evidences and without referring to the principles of applying the right and fair legal procedures which were stated in the applicable laws, within the Judgment Pages No. 124, 125, 144 and 146. It also disapproves with the expansion in the dependence on historical information contradicts with the facts, events and histories such as the training in Ayta ash Shab City, that is located in the Southern Lebanon and was subjected to the Israeli Conquer at that time in a way which makes it impossible to this fact/incident to be right in terms of its speculation and timing.

6– The organizations signing herein warn that there are defense witnesses in the above-stated case who weren't addressed/considered in this judgment by approval or refusal and totally disregarded them, on the contrary it depends on the prosecution witnesses despite the gross of the crimes and the severity of penalties which liable to death by hanging for some of them. The matter which raises the question of the reason for the

judgment's disregarding to the course of natural justice by referring to the physical exculpatory evidences and calls into question the trial's fairness.

7– Detainees said that there are statements which were attributed to them and weren't actually reported by them during the investigations, that makes the dependence on such confessions invalid due to the absence of a lawyer, on the other hand the prosecution authority should prove that detainees have knowingly abandoned their right of having a lawyer as per the international applicable rules. Since the judgment has been treated them on the contrary, our organizations refer to the necessity of entering improvements on the accused's right to call his/her lawyers, and giving the investigation officials and officers a broader instructions about the way of executing their responsibilities during the investigations, as well as enabling the detainees from having their rights at its best with respecting the rules of the accused's basic rights.

The repetition of such practices imposes on the legislative authority the urgency of putting the minimum standard rules of treating the detainees and the set of principles which are related to protecting those persons who experience all the forms of detention or imprisonment. It is also necessary to legalize a guidelines regarding the role of the members of Public Prosecution and Investigation in dealing with the accused person which guarantees a better and more comprehensive justice.

The signatory organizations emphasizes that the trial should include the fair trials' rules and conditions, together with the essential guarantees for the defendants and taking into account their rights in all levels of litigations, opposing torture in all its forms, as well as investigation in all facts and evidences which confirm the harsh and humiliating treatment and coercive detention. The signatory organizations also call for granting the defendants

**all of their locally and internationally essential rights, including presumption of innocence.**

**We also stress on the importance of Kuwaiti Authorities' compliance with all international rules related to human rights and fair trials.**

**We call for reconsidering the above mentioned sentences, in order to treat the defendants fairly and with justice, as well moving forward towards building and establishing the State of Law, Justice and Fairness.**

**Dr. Violette Daguerre**

**Paris 02 / 02 / 2016**

**The Signatory Organizations:–**

- 1. Arab Commission for Human Rights / Paris**
- 2. Amman Center for Human Rights Studies / Jordan**
- 3. Yemen Organizations for Defending Rights & Democratic Freedoms / Yemen.**
- 4. Organization House of Law / Yemen**
- 5. Civil confederacy for peace and human rights / Yemen**
- 6. Bahrain Forum for Human Rights**
- 7. Salam for Democracy and Human Rights / London**
- 8. Al-Mezan Association for Human Rights Development / Iraq**
- 9. Mauritanian Association for the Promotion of Rights**
- 10. Justice Organization for Human Rights and Democracy / Syria**
- 11. Damascus Center for Theoretical Studies and Civil Rights / Sweden**
- 12. International Council Supporting Fair Trial and Human Rights / Geneva**
- 13. Khiam Rehabilitation Center for Victims of torture / Lebanon**



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