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Agenda items 3 and 4

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Human rights situations that require the Council's attention

Joint written statement* submitted by the International Youth and Student Movement for the United Nations, the Women's International Democratic Federation, non-governmental organizations in general consultative status, the International Organization for the Elimination of all Forms of Racial Discrimination, the Union of Arab Jurists, the Arab Lawyers Union, the General Arab Women Federation, the International Association of Democratic Lawyers, North-South XXI, the United Towns Agency for North-South Cooperation, the Indian Movement “*Tupaj Amaru*”, the Asian Women Human Rights Council, the Organisation pour la Communication en Afrique et de Promotion de la Coopération Economique Internationale - OCAPROCE International, non-governmental organizations in special consultative status, the International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 February 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Death penalty and extrajudicial, summary or arbitrary executions in Iraq**

** The BRussels Tribunal, Arab Lawyers Association- UK, Geneva International Centre for Justice (GICJ), Association of Humanitarian Lawyers (AHL), The International League of Iraqi Academics (ILIA), The Iraqi Commission on Human Rights (ICHR), Women Will Association (WWA), Organization for Widows and Orphans (OWO), Ikraam Center for Human Rights, Belgian Peace Movement, Ligue camerounaise des droits de l'homme, Monitoring Net of Human Rights in Iraq (MHRI), Women Solidarity for an Independent and Unified Iraq, Geneva Global Media Centre, International Coalition against War Criminals (ICAWC), Medical Aid for the Third World, Association of Iraqi Diplomats (AID), The African Association of Human Rights (AAHR), Protection of Human Rights Defenders in the Arab World, Moroccan Association for the Right to a Fair Trial, Americans Against the War (France), General Federation of Iraqi Women (GFIW), The International Action Center (IAC), American Worker, Association of Iraqi Intellectuals and Academics, The International Network of Arab Human Rights NGOs, America In Solidarity, Federacion De Mujeres Cubanas, Association of Victims of American Occupation Prisons, International Anti-Occupation Network (IAON), International Lawyers.org, International Society of Iraqi Scientists, The Perdana Global Peace Foundation, Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, El Taller International, World Courts of Women, Center for Development Studies- India, Wariscrime.org, Action Center for Justice, 1% A Peace Army.org, A Bigger Tent.org, Agir contre la guerre (France), American Voices Abroad (Berlin, Germany), American Voices Abroad Military Project (Europe), Anti War Fair, Arizona Christian Peacemakers, Armbands for Peace, Arms Against War, Artists Against the War, Backbone Campaign, Be the Change, Become Active, Bike for Peace (Germany), Bill of Rights Defense Committee, Bird Dogger Org., Children of Iraq Association (UK),Bloomington Peace Action Coalition (IN), Blue State News Only, Boston Mobilization, Bring Democracy Back, Bring Them Home,Butterfly Gardeners Association, Citizens for Accountability on Iraq, California for Democracy, Camp Casey Blog, Camp U.S. Strike for Peace Campaign, Campaign Against Sanctions and Military Intervention in Iran, Canada Watch, Carolina Peace Resource Center (SC), Cartoon Free America, Catalysts of Hope, Central Colorado Coalition on the Iraq War, Chester County Peace Movement (PA), Cindy Sheehan Org., Cities for Peace, Citizens for Legitimate Government, Citizens for Peace & Justice, Human Rights for all-Morocco, Christian Clergy For Impeachment.com, Clothing of the American Mind, Coalition Against Election Fraud, Coalition for Impeachment Now (COIN), Code Pink, the Iraqi Association for Human Rights (IAHR), Al-Basa'er Media Association, Consumers for Peace.org, Dhafir Trial.org, DC Anti-War Network.org, Democracy Action, Democracy for America Meetup (Birmingham, AL), The Democratic Activist, Democracy Rising.org, Democratic Underground, Human Resources (Tbilisi, Georgia), Democratic Renewal, Democrats.com, Earth Day.org, Earth Island Institute, East Cobb Democratic Alliance (Cobb County, GA), Eastern Long Island Democracy for America (NY), ECU Peace and Justice NC, Election Solar Bus, Environmentalists Against War, Envision a New America, Foundation for the Development of Fox Valley Citizens for Peace and Justice (IL), Global Exchange.org, Global Network Against Weapons & Nuclear Power in Space, Global Resistance Network, Gold Star Families for Peace, Grandmothers Against the War, Grandmothers for Peace, Grass Roots Impeachment, Grass Roots Impeachment Movement, Grassroots North shoreWI, Green Delaware, Hawaii CD-01 Impeachment Action Coalition, Historians Against the War, Honk to Impeach, Idriss Stelley Foundation, Impeach Bush Cheney, Independent Progressive Politics Network, Impeach Bush Coalition, Impeach Bush TV.org, Impeachbush-cheney.com, Impeach Central, Impeach for Peace - Marshall, TX, Impeachable Treason, Impeach Duh, Impeachment Sunday, Inform Progressive Virginia, International Socialist Organization, Impeach Bush Cheney Net, Iraq Veterans Against the War, Iraq Veterans Against the War - Kansas City, Justice Through Music, Lake Merritt Neighbours Organized for Peace (Oakland, CA), Latinos for America, Leader of the Free Word - a great screen saver, Liberal Democracy Alliance, Liberal Kids, LIBERTY TREE Foundation for the Democratic Revolution, Los Angeles National Impeachment Centre, Louisiana Activist Network, Marijuana Policy Project, Massachusetts Impeachment Coalition, Men's Project for

Since the beginning of 2012, Iraq has executed at least 65 prisoners, 51 of them in January, and 14 more on February 8, for various offences. The Iraqi government seems to have given state executioners the green light to execute at will. The government needs to declare an immediate moratorium on all executions and begin an overhaul of its flawed criminal justice system. Joe Stork, deputy Middle East director at Human Rights Watch.¹

Peace, Michael Moore Online.org, Michigan Peace Works, Military Families Against the War (UK), Military Free Zone, Stop the War Coalition (Bedford, UK), Million Musicians March, Mission Not Accomplished, Montgomery County Progressive Alliance (MD), Musicians and Fine Artists for World Peace, Muslims for Peace (Australia), National Lawyers Guild - Chicago chapter, National Lawyers Guild - Detroit & Michigan chapter, Northeast Impeachment Coalition, North Jersey Impeach Group (NJ), Northeast Georgia Peace Corner Group (Helen, GA), Northwest Ohio Peace Coalition, Northwest Progressive Institute (Pacific Northwest US), Not in Our Name.org, Not in Our Name (Aotearoa, New Zealand), Nyack Impeachment Initiative (NJ), Ohio Progressive Action Coalition, One Global Community, Olympia Citizens' Movement to Impeach Bush/Cheney (WA), One Million Reasons, Operation Cease Fire, Operation Impeachment, Orange County Grassroots (CA), Out of Iraq, Out of Iraq Bloggers Caucus, Patrick Henry Democratic Club, Patriotic Pulse, Patriots for Gore, Peace Action, Peace Action Wisconsin, Peace and Accountability, Peace Drum, Peace Majority, Peace Movement Aotearoa (New Zealand), Peace Reso.org, Peninsula Peace and Justice Center (Palo Alto, CA), Plataforma Aturem la Guerra (Stop the War Catalonia), People's Campaign for the Constitution, People Powered Impeachment, People's Email Network, People's Glorious Five Year Plan, Picnic to Impeach, Pixel4Peace.org, Playing in Traffic, PledgeToImpeach.org, Political Cooperative, Politics and Art, Progressive Action Alliance, Progressive Action Center, Progressive Avenues, Progressive Democrats of America, Progressive Democrats of Hawaii Project Filibuster, Project for the OLD American Century, Refusing to Kill.org, Rescue Our Democracy, Sacramento for Democracy (CA), St Pete for Peace (FL), Sampsonia Way, San Diego for Democracy, School of the Americas Watch, Sheehan for Congress, South Florida Impeachment Coalition, South Mountain Peace Action (Maplewood & South Orange, NJ), Springs Action Alliance (CO), Stop the War Coalition (UK), Students for Impeachment, Students Towards a New Direction (STAND), Summit County Progressive Democrats (OH), The Known UnKnowns, The Politically Incorrect Cabaret, The Rational Response Squad, Think Blue Dems, Time for Accountability, Toronto Coalition to Stop the War (Canada), Torture Abolition and Survivors Support Coalition International, True Blue Liberal.org, Trumansburg Impeachment (NY), Truth Empowered, Truthtelling Project, UC Nuclear, Underground Action Alliance, Unitarian Universalist Peace and Justice Group (Nantucket, MA), United Blue USA, United for Veterans (Wayne, MI), United Progressives, Upbeat Defiance, US Peace Memorial, US Tour of Duty: Iraq Veterans and Military Families Demand the Truth, Velvet Revolution, Vet Gulf March, Veteran Intelligence Professionals for Sanity, Veterans for Peace, Chapter 27, Virginia Grassroots Coalition, Voters for Peace, We the People for Peace, We the People Network, We the People Now, We The People United Bangladesh.org, Peace Surge, Peace and Justice Action League of Spokane (WA), Stop the War (UK), U.S. Peace Council, World Can't Wait.org, World Prout Assembly, Komite Internazionale-Basque, Asociación Paz, Igualdad y Solidaridad Internacional, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, Málaga, Spain, Stop Fascism Action Network, The Asian Jurists Centre, Association of Human Rights Defenders in Iraq (AHRDI), The African Center for Human Rights (ACHR), Veterans for Peace, Your Declaration of Independence.org, Arab Lawyers Network-UK, Conservative Centre of Environmental & Reserves in Fallujah (CCERF), Willie Nelson Peace Research Institute, Studies Centre for Human Rights and Democracy, The Iraqi Centre for Human Rights, Association Internationale des droits de l'homme, NGOs without consultative status, also share the views expressed in this statement.

¹ HRW, Iraq: 65 Executions in First 40 Days of 2012: Human Rights Watch is particularly concerned that Iraqi courts admit as evidence confessions obtained under coercion. The government should disclose the identities, locations, and status of all prisoners on death row, the crimes for which they have been convicted, court records for their being charged, tried, and sentenced, and details of any impending executions, Human Rights Watch said. <http://www.hrw.org/news/2012/02/09/iraq-65-executions-first-40-days-2012>

According to UNAMI report of January 2011, the number of persons sentenced to death from 2003 to 1 December 2010 numbered encompassing 1106 men and 39 women.

On 19 January, 2012, 34 people, including two women, were executed in a single day.² On 24 January 2012 High Commissioner for Human Rights Navi Pillay stated in a news release that she was shocked and called on the country to institute an immediate moratorium on the use of the death penalty.

“Given the lack of transparency in court proceedings, major concerns about due process and fairness of trials, and the very wide range of offences for which the death penalty can be imposed in Iraq, it is a truly shocking figure,” she added. “Most disturbingly,” said Ms. Pillay, “we do not have a single report of anyone on death row being pardoned, despite the fact there are well documented cases of confessions being extracted under duress.”

The death penalty can be imposed in Iraq for around 48 crimes, including a number of non-fatal crimes such as – under certain circumstances – damage to public property.

The High Commissioner also urged the Government “to halt all executions and, as a matter of urgency, review the cases of those individuals currently on death row.”

The Deputy Ministry for Justice, was quoted in press reports on 16 December, 2010, that Iraq has executed 257 people since 2005. Those executed include six women. In response to a letter sent by UNAMI on 13 December 2010 the MoJ stated that 18 persons were executed in Iraq between 1 January 2010 and 20 December 2010.³

Furthermore, 84 death sentences were handed down by the courts in 2010. According to the Deputy Minister there were, at that time, some 37 (four of who are women) had their death sentences confirmed by the Presidency Council in 2010 while a further 385 persons (seven of who are women) have had their death sentences upheld by the Court of Cassation but have not yet received approval from the Presidency Council. The number of persons executed in 2009 were 124 persons, four of them were women.⁴

Furthermore, according to the then Minister for the Interior, Jawad al-Bolani, in relation to terrorism offences alone, there are 14,500 persons who have been convicted; however, the numbers of those serving life sentences in addition to those who have been sentenced to death has not been published⁵.

² <http://www.un.org/apps/news/story.asp?NewsID=41019>

³ NAMI Human Rights Office/OHCHR, 2010 Report on Human Rights in Iraq- Baghdad, JANUARY 2011, http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

⁴ On 20 March 2009, Amnesty International wrote that at least 285 people were sentenced to death in 2008; at least 34 were executed. In 2007, at least 199 people were sentenced to death and 33 executed, in 2006, at least 65 people were executed. The actual figures could be much higher as there are no available official statistics. "Scores face execution in Iraq six years after invasion". Amnesty International USA. 2009-03-20.

<http://www.amnestyusa.org/document.php?id=ENGNAU200903209818&lang=e>

⁵ “UNAMI notes with concern comments made by public officials in relation to persons arrested or charged in relation to serious crimes, including terrorist acts. For instance, in early December 2010 by the Minister of Interior, Jawad al-Bolani, reportedly called for the execution without delay of 39 al-Qaeda figures before they had been tried and convicted by a court of law.91 Such comments undermine the rule of law and prejudice the fair trial of accused persons by threatening the independence of the judiciary and the presumption of innocence” Daily Mail, “Justice, Iraq-style: 39 al Qaeda suspects who are all facing execution without trial”, 3 December 2010, available online <<http://www.dailymail.co.uk/news/article-1335291/39-al-Qaeda-suspects-facing-execution-trial.html#>> accessed 21 January 2011.

In 2005, Parliament passed a terrorism law approving the death sentence not only for those who commit terrorist acts, but also for those who finance, provoke, plan, or enable such acts. Furthermore, the terrorism law offered amnesty and anonymity to al-mukhbir al-sirri, (secret informer) who report alleged terrorist activities. Those reports contributed to the detention of thousands of Iraqis. Because of the “secret informer,” many have been arrested without real offences and many have wrongly been executed. Detainees are tortured and forced to confess crimes or terrorist acts during pre-trial interrogations, confessions they later denounce in court.⁶ This has created a weak judicial process, where many Iraqis are detained and sentenced to death shortly after getting arrested.

These so-called “acts of terrorism” are heavily advertised to the public and are regularly broadcast on the state-funded Al Iraqiya TV channel. While the government says these confessions are meant to provide a sense of security and justice, it’s difficult to find out under what conditions those confessions were given.

Iraqi Prime Minister Nouri al-Maliki publicly called for the execution of all members of the previous Ba'ath administration of Saddam Hussain, and other Iraqi current ministers also defended the use of the death penalty. More than 900 people, including 17 women, were thought to be at risk of imminent execution in Iraq at the end of 2009. They had reportedly exhausted all forms of appeal and their death sentences were said to have been ratified by the Presidential Council.⁷

On 28 May 2011, Amnesty International released its annual report. Their conclusion: “Serious human rights violations were committed by Iraqi security forces and US troops: thousands of people were detained without charge or trial, including some held for several years. (...) Torture and other ill-treatment of detainees by Iraqi security forces were endemic.(...) The courts handed down death sentences after unfair trials and at least 1,300 prisoners were reported to be on death row.”⁸

The court has handed down the vast majority of the death sentences. Defendants often complain that “confessions” are extracted under torture and other ill-treatment during pre-trial interrogation, often when they were held incommunicado in police stations or in detention.⁹

Defendants are often not brought before an investigative judge within a reasonable time and not told of the reason for their arrest.

The “confessions” extracted from them are often used as evidence against them at their trials, and accepted by the courts without taking any or adequate steps to investigate defendants’ allegations of torture.

Such “confessions” have also frequently been broadcast on the Iraqi government-controlled satellite TV Al Iraqiya. This practice undermines the presumption of innocence, which is a fundamental human right.

⁶ <http://www.dartsocietyreports.org/cms/2012/01/can-iraq-abolish-the-death-penalty/>

⁷ Amnesty International. The death penalty in the Middle East and North Africa in 2009
<http://www.amnesty.org/en/death-penalty/death-sentences-and-executions-in-2009/mena>

⁸ <http://www.amnestyusa.org/research/reports/annual-report-iraq-2011>

⁹ UNAMI Human Rights Office/OHCHR, 2010 Report on Human Rights in Iraq- Baghdad, JANUARY 2011,
http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

Trial proceedings before the CCCI are very brief, often lasting only a few minutes before verdicts are handed down.¹⁰

In practice, since 2005, Iraqi officials have frequently made the case that strictly speaking no presidential decree is needed to implement a death sentence. In that and other cases, the deputies of the president signed presidential decrees, thereby completing the procedure specified in the constitution. The selection of Khudayr al-Khuzai (a Daawa hardliner) as third deputy president was in part based on a desire by Shiite Islamists to have a presidential deputy that would be prepared to sign execution orders if president Talabani might be reluctant to do so.¹¹

The United Nations, in accordance with the General Assembly Resolutions 62/149 (2007), 63/168(2009) and 65/205 (2010) on the moratorium on the use of the death penalty, calls on the Government of Iraq to establish a moratorium on all executions with a view to its abolition and urges it to consider acceding to the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty. Given the systemic problems and weaknesses faced by the criminal justice system in Iraq, including substantial evidence of coercion of detainees to make confessions by investigating authorities, corruption and possible abuse of process, and the weak state of the judiciary, few convictions for serious offences can be considered safe. In this context, once the death penalty has been carried out it is irrevocable and cannot be undone. For these reasons, UNAMI strongly urges the Government of Iraq to suspend indefinitely the implementation of the death penalty and commute all death sentences already considered final to life imprisonment.¹²

Eleven Iraqi men in danger of being executed

On 25 January 2012 Amnesty International issued an urgent action alert to halt the execution of eleven Iraqi men. The Iraqi presidency has ratified the sentences of these men. They were sentenced to death on 14 January 2010 by the Central Criminal Court of Iraq (CCCI) in the Iraqi capital, Baghdad; sentenced to death in 2010 for their alleged involvement in bomb blasts at the Finance and Foreign Affairs Ministries, in Baghdad on 19 August 2009. They are at risk of imminent execution.

Very little information is available about the trial of the 11. According to media reports, their trial was not open to the public or the media, and was completed in a very short time. Trials heard before the CCCI consistently fall short of international fair trial standards.

Lawyer Badie Aref Izzat appealed to the Iraqi legal authorities to cancel the death sentence of these 11 convicts, and stated:

“These boys are waiting in death row and will be executed any moment now for a crime they did not commit. They were unjustly charged and unlawfully convicted and severe conditions made it impossible to defend themselves, evidenced by the signs of brutal torture, which are still visible on their bodies. These young men were convicted for the bomb attacks of bloody Wednesday, which damaged the Ministry of Foreign Affairs and Finance. These boys were convicted for the same crime to which another accused, Manaf

¹⁰ <http://www.amnesty.org/en/news/iraq-urged-commute-death-sentences-11-are-hanged-2011-11-17>

¹¹ Reidar Visser. Is the Iraqi Presidency an Appellate Court? 06/08/2011
<http://gulfanalysis.wordpress.com/2011/08/06/>

¹² UNAMI Human Rights Office/OHCHR, 2010 Report on Human Rights in Iraq- Baghdad, JANUARY 2011,
http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

Abdul Rahim al-Rawi, has already admitted to be guilty of. That these boys did not commit this crime is based on facts”¹³

The “Dujail wedding massacre”

At the end of May 2011, a group of men made a confession on the Iraqi government controlled TV to a horrific crime. They said “In 2006, as members of a Sunni terrorist organisation, they were said to have kidnapped the wedding entourage of a mixed Shiite and Sunni couple. Women were raped, children thrown in the river. Seventy people in total were reportedly murdered”. Radio Netherlands Worldwide (RNW) investigated the event¹⁴. RNW spoke via a contact person to tribal leaders and officials from the Shiite village of Dujail, said to have been the home of most of the victims. They say anonymously that the massacre never took place.

Seventy people are said to have died, yet no family members of the victims could be found. Supposed family members did appear in the TV broadcast. When a parliamentary delegation travelled to meet them, they all turned out to have lost family members in other attacks.

The fifteen men were sentenced to death on 16 June 2011, only days after “confessions” by several of them were broadcast on Iraqi television. They may not have received a fair trial.¹⁵

On 24 November, 12 of the “suspects” were hanged in one of Baghdad's prisons¹⁶ for a crime that most probably didn't happen.

International human rights law protects the inherent right to life. Specifically, it protects everyone against the arbitrary deprivation of life. While Article 6 of the ICCPR does not prohibit the death penalty, it restricts its application to the “most serious crimes”¹⁰² and prohibits its use on children and pregnant women or in a manner contrary to the Convention on the Prevention and Punishment of the Crime of Genocide. The UN Human Rights Committee interprets the Article as “strongly suggest[ing] that abolition is desirable”, and regards progress towards abolition of the death penalty as advancing fulfilment of this right. The Second Optional Protocol to the ICCPR commits its signatories to the abolition of the death penalty within their borders. Iraq formally rejected a recommendation from the UPR process in February 2010 that called on it to accede to the Second Optional Protocol or to abolish the death penalty.

UNAMI was able to confirm the observations made by some NGOs that the participation of attorneys, when present, is largely nominal. Several defendants, particularly those accused of serious crimes, testified to having suffered abuse at the hands of the police during the investigation phase in order to extract confessions.¹⁷

Recommendation by the NGOs signatories to this statement:

- Ensure that all human rights violations in Iraq during the invasion and occupation be investigated by an international independent body.

¹³ Excerpts of a letter that was received by the BRussells Tribunal

¹⁴ <http://www.rnw.nl/english/article/suspicious-mount-about-iraqi-wedding-massacre>

¹⁵ <http://aicolumn.wordpress.com/2011/06/22/urgent-action-imminent-executions-in-iraq/>

¹⁶ <http://aknews.com/en/aknews/4/274435/>

¹⁷ UNAMI Human Rights Office/OHCHR, 2010 Report on Human Rights in Iraq- Baghdad, JANUARY 2011, http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

- All measures must be taken to end the current state of impunity, both within Iraq, and with regard to the culpability and responsibilities of the occupying powers in particular.
 - Appoint a UN Special Rapporteur for the Human Rights situation in Iraq.
 - Request the High Commissioner to present to the Council a detailed report on the Human Rights violations in Iraq since 2003 according to UNAMI and the civil society reports.
 - Request the Special Rapporteur on extrajudicial, summary or arbitrary executions, and Special Rapporteur on torture, and Special Rapporteur on the independence of judges and lawyers to focus on this matter in their reports.
-