



General Assembly

Distr.: General
5 March 2010

English only

Human Rights Council

Thirteenth session

Agenda item 4

Human rights situations that require the Council's attention

Written statement* submitted by Women's International Democratic Federation (WIDF), a non-governmental organization in general consultative status, North-South XXI, Union of Arab Jurists (UAJ), International Organization for the Elimination of All forms of Racial Discrimination (EAFORD), General Arab Women Federation (GAWF), Arab Lawyers Union (ALU), Indian Movement 'Tupaj Amaru', General Federation of Iraqi Women (GFIW), United Towns Agency for North-South Cooperation, International Association of Democratic Lawyers (IADL), non-governmental organizations in special consultative status, 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.

[17 February 2010]

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

Abuse and Torture in Iraq**

It is a well-known fact, that since the US-UK invasion of 2003 the Coalition forces have criminally abused and tortured large numbers of Iraqi prisoners.¹ The world public began to learn the details of this scandal in April 2004 when photos and reports of the inhuman treatment to Iraqi POWs at Abu Ghraib prison began to leak out to the public. Hundreds of Iraqis have suffered from this inhuman treatment and some have died as a direct result to it. According to HRW (2004) The Iraq torture was part of a world-wide pattern, begun in Afghanistan and Guantanamo, and continued in the US programs of “extraordinary rendition” and secret prisons. It must be noted here that this policy was officially adopted in Iraq after certain exchange between the US Army leaders and the US administration. In August 2003, the top command in Baghdad sent emails to US military interrogators, saying that the “gloves are coming off” and asking for “wish-lists” of harsher interrogation methods. At the same time, the Pentagon sent the commander of Guantanamo Prison, General Geoffrey Miller, to advise occupation forces on more aggressive interrogation tactics. Miller proposed innovations such as the use of fierce guard dogs to frighten naked inmates.

The torture acts and interrogators include vicious beating, strangulation and suffocation, forced nudity and other forms of humiliation, threats with dogs, and prolonged exposure to intense heat or cold. Reports have also detailed hooding, sleep deprivation, hanging by the arms, near-drowning, sexual abuse, restricted food and water, burns, use of sharp and blunt instruments, exposure to intolerable noise, threats of murder, beating with clubs and wire, prolonged “stress” positions, electric shocks and more.

In response to rising worldwide public concern, the Pentagon removed the commander of military police guards serving at Abu Ghraib, General Janis Karpinski, and later named as the new commander of Iraq-wide detainee operations the very person widely seen as architect of the worst illegalities – General Geoffrey Miller himself.

In the fall of 2003, the US military commissioned several investigations that provided extensive evidence of detainee abuse and torture. US General Antonio Taguba submitted a detailed report in March 2004, concluding that US guards had subjected Iraqi detainees to “numerous incidents of sadistic, blatant and wanton criminal abuses.” The report further

** Association of Arab Lawyers (UK), Monitoring Net of Human Rights in Iraq, Association of Iraqi Diplomats, Women Solidarity for an Independent and Unified Iraq, Association of human rights lawyers, Women Will Association (WWA), Organization for Widows and Orphans, (OWO), The United Prisoners of Iraq, Association of Victims of American Occupation Prisons, Association of Iraqi intellectual and Academics, Conservation Centre of Environmental & Reserves in Iraq (CCERF), International Humanitarian Lawyers, NGOs without consultative status also share the views expressed in this statement.

¹ For more details on the Abuse and Torture of Iraqi prisoners see the following documents on which this paper is based: Reports of United Nations Aid Mission for Iraq (UNAMI), Global Policy, war and occupation in Iraq- 2007). Human Rights Watch, *The Road to Abu Ghraib* (June, 2004), Amnesty International, *Beyond Abu Ghraib* (March 2006), Human Rights First, “Command’s Responsibility” - February, 2006, International Committee of the Red Cross, *Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation* (February 2004) [ICRC Report], “*By the Numbers, Detainee Abuse and Accountability Project*” by Human Rights Watch, Human Rights First and the New York University School of Law Center for Human Rights and Global Justice(April, 2006).

described these abuses as “egregious acts and grave breaches of international law”. In its February 2004 report the ICRC provided similar evidence.

US officials announce several times that the abuse would cease. These announcements were seriously misleading. The reality on the ground confirms the continuation of this inhuman policy. The only change is that the detention and interrogation centers become secret. During the past years, serious cases have regularly come to light and the head of the UN Human Rights Office in Baghdad, Gianni Magazzeni told Associated Press in April, 2006 that cases of torture and summary execution are “happening every day.”

In its report, *Beyond Abu Ghraib* (March 2006) Amnesty International provides evidence of some grisly cases long after the official promises of reform. Amnesty also obtained an October 2005 photo of a detainee in a harmful “restraint chair” at Abu Ghraib, a chair that authorities said was being used as “punishment.” Such a chair, Amnesty determined, posed a major health risk, was seriously abusive, and was clearly contrary to international law.

The lack of visits by human rights groups, the Red Cross and UN experts compounds the situation, as does the absence of army criminal investigators. At Camp Nama, commanders assured the interrogation personnel that there would be no Red Cross visits and no visits by the army's criminal investigators either. In its June 2007 report UNAMI “...regrets that to date the US authorities still do not see fit to allow public monitoring of MNF detention facilities by independent human rights monitors, including those of UNAMI”.

There have been many cases of deaths due to torture, abuse or murder, but military officially attributes most of these deaths to “natural causes,” or “unknown causes”. Independent medical experts doubt such findings, considering the age of most detainees and the circumstances of their detention. Human Rights First (HRF) believes that about half of the cases it examined can be clearly attributed to homicide, bad treatment, abuse or torture. There are well-known cases, where those US and UK troops, in charge of detainees pushed Iraqis into rivers or canals from bridges or high embankments, causing death from drowning.

In another case, in November 2003, HRF documented that (US interrogators used a sledgehammer handle beating to “ratchet up the pressure” while interrogating Iraqi Major General Abed Hamed Mowhoush at Forward Operating base in al-Qaim. Chief Warrant Officer Lewis Welshofer stuffed Mowhoush head first into a sleeping bag, wrapped the bag with electrical cord, sat on his chest, and covered his mouth and nose, eventually killing him. The military immediately issued a statement attributing Mowhoush's death to “natural causes,” but the autopsy indicated that Mowhoush died of asphyxia due to smothering and chest compression, while suffering massive bruising and five broken ribs. The investigation determined that the abhorrent interrogation methods had been approved by Company Commander Major Jessica Voss and had been used on at least 12 other prisoners. A shadowy CIA-organized Iraqi team called the “Scorpions” was involved in the incident).

In another example, On May 9, 2006, three US soldiers shot and killed three Iraqi detainees, having allowed them first to escape so as to make the killings appear justified. There are more disturbing cases in which the soldiers have testified that two senior officers gave an order to “kill all military age males” they encountered, information that the officers themselves have corroborated. In this context, the soldiers understood that detainees were to be summarily executed. These are just few examples of the systematic violations which are happening in Iraq since the occupation.

Torture and Abuse by Iraqi Authorities

Since 2004, the Iraqi authorities, under the overall authority of US commanders, have taken active role in detention and interrogation. Reports have documented extreme abuse and

torture in facilities under their control, as well as abuse by government-influenced paramilitary forces. Iraqi torture has included burning flesh, sexual assault, and the use of electrical shocks on delicate body tissue.

In its December, 2008 report UNAMI clearly expresses its concern on the **“grave human rights violations that are less widely reported...”** and the **“ongoing widespread ill-treatment and torture of detainees”**²

In the summer of 2005, *The Observer* newspaper reported that **US and UK aid money, intended to support the building of a regular Iraqi police force, “was being diverted to paramilitary commando units accused of widespread human rights abuses, including torture and extrajudicial killings.”** In late 2005, new evidence emerged that forces of the **Iraqi Interior Ministry were subjecting detainees to gross torture and ill-treatment in a number of facilities under its control.** On November and December, 2005, two Interior Ministry detention facilities in Baghdad, were found to be holding more than 800 detainees in appalling conditions, and many had been tortured. The US ambassador to Iraq admitted that "over 126" detainees found at these detentions facilities had been abused. Since then the Iraqi authorities promised to investigate but so far no result.

Torture and ill treatment are widely practiced **in the three governorates north of Iraq. UNAMI documented cases of ill treatment and torture in detention,** particularly during interrogation, as well as denial of access to legal counsel at both the investigative stage and at trial. It reported that **“Most of the detainees in this category were Iraqi Arabs arrested in Mosul or Kirkuk and then transferred to Kurdistan region custody. The criminal courts in the Kurdistan region do not have jurisdiction over cases involving transfers from other governorates in Iraq where the alleged crimes were committed”**.³

Impunity

Hundreds of US and UK personnel have participated in the abused and torture of Iraqi POWs. military medical personnel, including doctors, have been involved in abusive interrogation and have approve and monitor abusive interrogation, as well as filing false medical reports, including false death certificates.

The US and the UK governments have responded to reports of the use of torture and abuse with many officials of low-level misdeeds investigations. Few offenders have been brought to justice, light sentences have been handed out, and high-level officials and commanders have escaped responsibility. According to a definitive human rights report, among six hundred US military personnel clearly implicated in detainee torture and abuse in Iraq, Afghanistan and Guantanamo, only few appear to have actually been court-martialed. As of

² UNAMI, human rights report on Iraq, Dec. 2008.

http://www.uniraq.org/documents/UNAMI_Human_Rights_Report_January_June_2008_EN.pdf

³ During its visits to a number of detention facilities, UNAMI noted that those under Asayish authority in Duhok, Erbil and Sulaimaniya remained seriously overcrowded, aggravating discomfort and health of detainees in the summer. At Asayish Gishti in Erbil, there were 158 detainees in five cells, with approximately 25 detainees in one cell measuring 5x8 meters and about 50 detainees in a larger cell. In Asayish Gishti in Sulaimaniya, 75 detainees were squeezed into one cell measuring 5x8 meters, leaving little room for sleeping or stretching. The large detainee population prevents regular exercise because some facilities lack the minimum number of guards to secure all. UNAMI added that (judicial officials in Duhok and Sulaimaniya told UNAMI that the reason for their transfer to the KRG region in the first instance was due to the “ineffective” judicial system in the rest of the country. Further, that the KRG authorities were “entitled” to arrest those who had committed acts of violence against Kurdish elements in Mosul and Kirkuk). UNAMI, Human Rights Report, 2007.

April 10, 2006, only ten were sentenced to more than one year in prison. Even in the grave case of detainee deaths, only a handful of those implicated were punished.

In the trial of Chief Warrant Officer Welshofer, responsible for the sleeping bag death of General Mowhoush, sentencing was reduced to a \$6,000 fine and 60 days of restricted movement between home, base, and church.

The Convention against Torture unequivocally prohibits the use of any form of torture. The Universal Declaration insists that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” The same protection is guaranteed by other key international legal instruments.

Torturing Iraqi people by both the occupation and the authorities in today Iraq is a “grave breaches of international law.” Those responsible at the highest levels, whose decisions led to these acts, must be held accountable.

The Human Rights Council must act immediately on these and other kind of violations by deeply discussing the human rights situation in Iraq and to re-institute the position of the Special Rapporteur on Iraq, which was dismissed after the US invasion to Iraq in 2003.
