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Human rights situations that require the Council's attention

Joint written statement* submitted by the Union of Arab Jurists (UAJ), the International Organization for the Elimination of All forms of Racial Discrimination (EAFORD), the General Arab Women Federation (GAWF), North-South XXI, the Arab Lawyers Union, the Indian Movement (TUPAJ AMARU), the General Federation of Iraqi Women (GFIW), the United Towns Agency for the North-South Cooperation, the International Association of Democratic Lawyers, 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).

Grave and Systematic Violations of Human Rights in Iraq**

Since the 2003 invasion and the occupation that followed, human rights violations in Iraq have been pervasive, widespread and difficult to ignore. Sources for these violations and violators are many, mainly conducted under the cover of feigned pretexts, and the victims, whether randomly chosen or targeted on the basis of ethnic, religious, gender or political orientation, almost always have no recourse for justice, or holding the victimizer accountable.¹ Thus, the Iraqi people are suffering from all kinds of grave, severe and systematic violations to their basic rights since the invasion of 2003. These violations have been reported in several occasions by UN bodies, ICRC, and NGOs.²

In his statement before the high-level segment of the 10th session of the Human Right Council (March 2009), the General Assembly President Mr. Migul D'Escoto BROCKMANN, urged the Council to focus on the profound problems that have been created by the massive violations human rights in Iraq. He clearly stated his position on the situation by saying "I urge you to put the questions of the situation of human rights in Iraq on your agenda. You might discuss the appointment of a special mechanism to report on the situation of human rights there. You also might consider the reports of the Office of the High Commissioner on Human Rights that are prepared by the United Nations Assistance Mission in Iraq (UNAMI). It is ironic that for almost 20 years before the U.S led invasion and occupation, there was a Special Rapporteur on Iraq. Yet precisely when the largest human catastrophe on earth began to unfold in Iraq in 2003, this post was eliminated. Reliable sources estimates there are over one million civilian deaths in Iraq as a direct result of the U.S led aggression and occupation, and still there is no Special Rapporteur. This is a serious omission that should be corrected"³.

The scale of destruction, extrajudicial executions, torture, oppression and other systematic human rights violations continues. Moreover, Iraqis are left without basic health care, education, drinkable water and adequate sanitation. The rights of women and children are severely violated. The situation of human rights in Iraq is still the most dangerous, fragile, deeply divided, and the government still cannot deliver even the most basic of services; electricity and clean water supply or a safe environment for refugees to return⁴.

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

¹ UNAMI FOCUS: News Bulletin Issue No. 29, December 2008, http://www.uniraq.org/FileLib/misc/Focus_December2008.pdf

² For more details on the human rights situation in Iraq see: Reports of United Nations Aid Mission for Iraq (UNAMI), reports of the UN Office for the Coordination of Humanitarian affairs (OCHA) on Iraq, reports of other UN agencies (HCR, WHO, UNICEF), Global Policy, war and occupation in Iraq- 2007). Human Rights Watch reports, 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], Amnesty International, *Beyond Abu Ghraib* (March 2006) and 2009 reports.

³ <http://downloads.unmultimedia.org/radio/en/real/2009/090304-brockmann.rm>

⁴ James Denselow, Iraq's real future, the guardian.co.uk, Tuesday 10 February 2009

Statistically speaking, according to several reliable sources, these human rights violations left more than 1.300.000 Iraqi civilians dead, more than 2.000.000 orphans, about 2.000.000 widows, more than 5.000.000 either internally displaced persons or refugees abroad. Hundreds of thousands of Iraqis have been subjected to abuse and torture in prisons and detention centres, thousands have disappeared or have been victims to extrajudicial killing.⁵

Nevertheless, there is no real discussion in the Human Rights Council on this tragedy, no action is taken against these grave violations, no firm position is held to protect the Iraqi people.

According to the Humanitarian Action update of January 2009, UNICEF, found major gaps in essential social services. In several locations in Iraq visited by UNICEF, 70% of the population don't have reliable access to safe drinking water. It found also that more than 65% of them are without functional sanitary system.⁶

On 9 January 2009, the World Bank and the Iraqi Ministry of Planning published their (Iraq Socio-Economic Survey), which revealed that some 44% of Iraqis received a monthly income of less than 100,000 Iraqi dinars (\$85), or less than \$2.7 a day. The study showed that 87.5% of the population did not have a stable water supply, although more than 80% of individuals live in dwellings connected to public water networks. As for electricity, the national grid is the main source of three-quarters of the population, but provides an average of only eight hours a day⁷. The same study stated that "Iraq was widely regarded as the most developed country in the Middle East. Before the invasion of 2003, people came to Iraq from across the region seeking the best in university education and health care. Iraq ranked toward the top on virtually every indicator of well-being—infant mortality, school enrollment, family food consumption, wage levels, and rates of employment. The World Bank classified Iraq as an upper-middle-income country".⁸

In its periodical report of 2009, (published in January 2010), UNAMI mentioned that Iraq witnessed improvements in general security conditions however, grave human rights violations remain unaddressed. Ongoing widespread ill treatment and torture of detainees by Iraqi law enforcement authorities, amidst pervasive impunity, constitute severe breaches of international human rights obligations.⁹

It added that UNAMI and OHCHR expressed, both publicly and in direct communication with relevant Iraqi authorities, concern regarding the decision by the Government of Iraq to resume the implementation of the death penalty. OHCHR and UNAMI are concerned that the Iraqi criminal justice system does not provide sufficient fair trial guarantees and calls upon the Government of Iraq to immediately take necessary measures to ensure its compliance with the relevant articles of the ICCPR as well as UN General Assembly resolution 62/149 requesting states that have not abolished the death penalty to establish a moratorium on executions.

⁵ See in this regards the Lancet reports, ORB (Opinion Research Business) reports, UNHCR reports, ICRC.

⁶ UNICEF Humanitarian Action update, Iraq, January 2009:
http://www.unicef.org/infobycountry/files/HAU_Iraq_19_Jan09.pdf

⁷ World Bank, January 2009, Iraq household socio-economic survey IHSES - 2007 :
tabulation report (Vol. 1 of 3) : Objectives, methodology, and highlights.

⁸ World Bank, *ibid*

⁹ UNAMI, Human Rights Report, published in January.2010

UNAMI recommends that the Iraqi authorities “Establish a moratorium on the death penalty pending a thorough review of the Penal Code and the Law on Criminal Proceedings in accordance with UN General Assembly resolutions 62/149 (2007) and 63/168 (2008)”.

UNAMI also stated that it remained gravely concerned at continuing reports of the widespread and routine torture and ill-treatment of detainees, particularly those being held in pre-trial detention facilities under the Ministry of Interior, including police stations. Several such cases were documented during the reporting period.¹⁰ Many have been deprived of their liberty for months or even years, often under harsh physical conditions, without access to defence counsel, or without being formally charged with a crime or produced before a judge.¹¹ Thus, Iraqi POWs are suffering inhuman and brutal treatment. The families of those POWs are extremely worried because the US occupation and the Iraqi authorities agreed to hand over those prisoners and detainees to the Iraqi authorities, a matter which could result in their immediate execution and at least the torturing of a lot of them. On 9 January 2009, Amnesty International expressed its concern on this issue, saying that those detainees will be at risk if transferred to Iraqi custody.¹²

In the Kurdistan Region, UNAMI continued to receive reports of violent killings, and burning of women. Statistics vary on the prevalence and scale of these cases and details are often unattainable. Official statistics showed that between January and June 2008, 56 women have been murdered and 150 have been burned in the Kurdistan region.¹³ According to UNAMI, the media and official departments in the Kurdistan region released conflicting reports and assessments of the situation of women. However, some officials and civil society organizations believe that there has been a steady increase in 2008 in violence, and that the KRG authorities’ claims of a decline cannot be substantiated.

UNAMI (Jan.2010) said that it continued to monitor the situation of women in the KRG. During the reporting period, UNAMI did not see any indications of significant changes regarding the scale and patterns of violence and abuse targeting women. It is worthy to mention here that in its previous reports UNAMI confirmed that there were almost 300 women killed yearly in the Kurdistan region, more than 200 of them were burned in a suspicious way.¹⁴ Several human rights defenders believe that most of these cases resulted from rape crimes, then the criminals trying to erase any sign of their crimes by killing or burning those women.

The health sector is suffering a severe deterioration that it cannot meet the needs of the population. Prior to the illegal wars and sanctions, the medical service in Iraq was amongst the most developed in the region, according to the WHO report of March 2003.¹⁵ But, since the occupation, and the sever damage to the health sector, which amounts to a serious violation of international humanitarian law, the Iraqi population were deprived from the basic health care.

Preventing the Iraqi people from their right to education continues in 2009 where students do not have the suitable environment and facilities to study. The entire higher educational system is in a state of collapse. Attacks on universities, by the occupation troops or others, since the invasion, have driven away students from continuing their studies. While in

¹⁰ UNAMI, 2007, 2008, 2009 reports

¹¹ UNAMI. *Ibid*,

¹² Amnesty International, Call for protection of US detainees in Iraq.
<http://www.amnesty.org/en/appeals-for-action/detainees-held-usa-risk-if-transferred-iraqi-custody>

¹³ UNAMI. *Ibid*,

¹⁴ See UNAMI: Human Rights Report 1 April – 30 June 2007, Human Rights Report 1 January – 31 March 2007

¹⁵ http://www.who.int/features/2003/iraq/briefings/iraq_briefing_note/en/index3.htm

March 2003, UNESCO said that, except for the 1991 sanction period, the education system in Iraq was one of the best in the region, with over 100% Gross Enrolment Rate for primary schooling and high levels of literacy, both of men and women. The higher education, especially the scientific and technological institutions, was of an international standard, staffed by high quality personnel.¹⁶

The basic infrastructure of the country has been destroyed by military operations since 2003. Several Iraqi cities have been severely destroyed under the pretext of attacking “terrorists”, while the result is massive killing of innocent civilians. Humanitarian aid and journalists were prevented from entering these cities. More than two thirds of the population has no access to clean drinkable water, or a functioning sewage system¹⁷.

Corruption is a wide, open phenomenon in today’s Iraq. Reconstruction campaign was used as a cover to the enrichment of those in power on the expenses of the Iraqi people. In this connection, billions of US dollars vanished in the past five years. In its reports, Transparency International cited Iraq among the worst countries in corruption.¹⁸

UNAMI continued to receive reports of intimidation and harassment of media professionals. Journalists and media workers reported to be continuously subjected to ill-treatment and arbitrary detention by Ministry of Defense personnel¹⁹.

In another violation to the Geneva Convention the occupation authorities have changed most of the basic laws and created a new special tribunal. International humanitarian law applying to occupying powers prohibits the creation of new or special courts or tribunals and the political manipulation of an existing judiciary. In several official statements, the UN Special Rapporteur on the Independence of Judges and Lawyers, states his strong objections regarding the conduct of these courts. According to the Special Rapporteur, these trials have violated international standards on due process and violated human rights standards and principles, in particular the right to be tried by an independent and impartial tribunal and the right to adequate defense as stipulated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.²⁰ The Special Rapporteur on extrajudicial, summary or arbitrary executions has stated similar positions in this regard²¹. It is also worthy to mention here the position of the UN High Commissioner, toward this court in its legal opinion of 8 Feb. 2007 in which she described the violations that occurred in these trials.²² Despite that, these trials are continuing today in prosecuting Iraqis without any respect to the minimum human rights standards.

Despite of all these deplorable facts and alarming reports, the Human Rights Council has never discussed the human rights situation in Iraq after the invasion of 2003, nor has the High Commissioner brought it to the attention of the Council, in accordance with her mandate. This situation is a challenge to the entire human rights community and all governments. The Human Rights Council can no longer remain silent on Iraq. It must open an in depth discussion on this major human rights tragedy. We urge the

¹⁶ UNESCO report on Iraq

¹⁷ World Bank, January 2009, *ibid*,

¹⁸ http://www.transparency.org/publications/gcr/download_gcr/download_gcr_2007#7

¹⁹ UNAMI, January 2010 (Report of 2009)

²⁰ Reports and statement by the UN Special Rapporteur on the independence of judges and lawyers <http://www2.ohchr.org/english/issues/judiciary/index.htm>

²¹ Reports and statements by The Special Rapporteur on extrajudicial, summary or arbitrary executions can be found in this link: <http://www2.ohchr.org/english/issues/executions/index.htm>

²² Opinion of the High Commissioner: <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/0C7D1ECC70EA129CC125727D00525A58?opendocument>

Council and the High Commissioner to seriously examine this situation in its entirety as one of the extremely urgent issues that need to be incorporated in the HRC's agenda. As a first step we urge the Council to re-institute the position of a Special Rapporteur on Iraq, which was dismissed after the invasion in 2003.
