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**Human rights situations that require the Council's attention**

**Joint written statement\* submitted by the International Youth and Student Movement for the United Nations, non-governmental organization in general consultative status, International Organization for the Elimination of All Forms of Racial Discrimination (EAWORD), Arab Organization for Human Rights, Indian Movement "Tupaj Amaru", International-Lawyers.Org, Union of Arab Jurists, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations 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.

[31 August 2016]

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



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## The Militias in Iraq: The Other Face of Terrorism

Although the Iraqi Constitution prohibits militias “*outside the framework of the armed forces*”<sup>1</sup>, their role has developed exponentially and quickly in Iraq since 2005. According to a statement of the Iraqi Prime Minister Haider al Abadi, dated 25<sup>th</sup> May 2016, there are currently over 100 militias operating in Iraq, all of whom exercise the authority of arrest, detention, torture and, in many cases, summary executions.

### **The rise of the militias:**

The ascension to power of the militias in Iraq started following the power vacuum and political chaos brought in the wake of the 2003 US-led invasion. Order 2 given during the tenure of the Coalition Provisional Authority, dated on the 23<sup>rd</sup> May 2003, dismantled the Iraqi army, security forces and police units. Right after this immediate dissolution, Paul Bremer, American Governor in Iraq, re-established new units, primarily composed of militia members.

The fact is that those militias were not trained to behave according to the rule of law and thus did not adhere nor comply with military standards and procedures. Actually, they were trained in an ungovernable environment and used their authority and power as means to further their own interests.

From that point on, the militia attitude became intrinsic to the security forces and, in the absence of an effective rule of law, it resulted in the dramatic outcome we observe now.

Most of the militias now operating on Iraqi soil were created, trained and funded by Iran and thus the Iranian influence is an indisputable and complicating factor.

### **Al-Hashid al-Shaabi:**

On 13<sup>th</sup> June 2014, in the aftermath of the fall of Mosul in the hands of ISIS, the Grand Ayatollah Ali al-Sistani, announced a Fatwa<sup>2</sup> where he called on believers to volunteer in the fight against ISIS and thousands responded to his call.

Not long after, former Iraqi Prime Minister Nuri al-Maliki, decided to create an umbrella organisation for the militias. Such decision was highly controversial and many Iraqi politicians, especially members of Parliament, denounced its lack of legal basis. This organisation is now known as *al-Hashid al-Shaabi* or *Popular Mobilization Forces* in its English version.

The main components of al-Hashid al-Shaabi were already existing militias, such as the Badr Brigade, Asa’ib Ahl Al-Haq, Saraya al Salam, and Abul Fadl Al Abbas brigade. They were then joined by hundreds of volunteers.

Various militias have been claiming to work under the umbrella of al-Hashid al-Shaabi but they actually follow their own leadership and rules. There is no central control or authority that can discipline the different militias within the organisation.

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<sup>1</sup> "Iraqi Constitution," The Republic of Iraq Ministry of Interior, Accessed June 3, 2015, [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf&ei=6RVvVfLeHsOvswHntYP4Cw&usg=AFQjCNHfUEjO7Yh7UQTqg9hw-cBvaS0YiA&bvm=bv.94911696,d.bGg](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf&ei=6RVvVfLeHsOvswHntYP4Cw&usg=AFQjCNHfUEjO7Yh7UQTqg9hw-cBvaS0YiA&bvm=bv.94911696,d.bGg). See Section 1, Article 9(b)

<sup>2</sup> A fatwā (Arabic: فتوى; plural fatāwā Arabic: فتاوى) in the Islamic faith is the term for the legal opinion or learned interpretation that the Sheikhul Islam, a qualified jurist or mufti, can give on issues pertaining to the Islamic law (<https://en.wikipedia.org/wiki/Fatwa>)

Al-Hashid al-Shaabi militias are responsible for the deadliest attacks in the country and have been accused by many NGOs dealing with Human Rights of having committed war crimes and crimes against humanity, even genocide in certain cases. In these circumstances, the lack of central coordination translates into a lack of accountability, which, in turn, means that those responsible of the crimes cannot be brought to justice.

#### **The rise of the sectarian tension:**

The increasingly insecure environment in which Iraqi civilians are finding themselves in nowadays is the direct and blatant consequence of the sectarian tension that has been promoted by the militias. The sectarian tension has now reached its highest peak and needs to be tamed down urgently.

In January 2014, Nuri al-Maliki, then Prime Minister, launched a bombing campaign against the province of Anbar, hotbed of the main demonstrations against its established government. When rationalising the operation, the authorities explained it was to drive out ISIS elements. However, the casualties among the jihadists were far fewer than among the civilian population. Several cities have thus been severely damaged, Tikrit, Amerli and Fallujah, to name some.

The city of Tikrit was invaded by ISIS on 26 June 2014. The Iraqi government responded by launching an air assault, operation reinforced by a ground offensive supported by the al-Hashid al-Shaabi militias. Tikrit was finally declared “free” by the Iraqi authorities on 12 April 2015 but the devastation caused to the civilians was unimaginable. The entire city and all the villages in the nearby were destroyed. The pro-government militias had been attacking indiscriminately every civilian building, looting, burning and destroying everything they found on their way. The population was not left spared as dozens of persons were killed and many more made prisoners, on purely sectarian motivations.

The sectarian pattern was also very clear in the battle to “*liberate Fallujah*” launched on 22<sup>nd</sup> May 2016. Several militias took part to this offensive, which revealed to be massively destructive for both the city and its people once again.

#### **The violations of the militias:**

##### **Enforced disappearances:**

Despite the claims of the Iraqi authorities that the practice of enforced disappearances is one of the past, it remains a widespread challenge in Iraq since 2003. The government forces and government-affiliated militias are particularly keen to this method. In this regard, a precise pattern can be found in the disappearance of people. Most of the abducted nowadays are Sunni young men, aged between 18 and 50, considered as most likely to join ISIS or anti-Shi'a groups.

Most of the disappeared persons are believed to end up in one of the 420 secret prisons disseminated throughout Iraq. Indeed, these facilities are known to be used to detain certain persons, following an arbitrary arrest and on the basis of mostly false accusations. What happens in them is just another example of the lack of a functioning legal system in Iraq.

A plethora of enforced disappearances happened in Fallujah and its neighbourhoods following the launch of a military campaign supposed to liberate the city from ISIS. On 1<sup>st</sup> June 2016, 1,500 men and boys over the age of 14 escaped the fighting happening in the village of Saqlawiya. All of them got immediately captured, detained and heavily tortured by pro-government militias. On 5th June, 900 of them simply disappeared. In a statement delivered on July 5, 2016, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, declared “*the fate of the larger group is unknown, which is intensely worrying, particularly given the references made to revenge for the Camp Speicher massacre*”<sup>3</sup>. The High Commissioner underlined the fact that “*this appears to be the worst – but far from the first – such incident involving unofficial militias fighting alongside Government forces against ISIL*”. The UN Special Representative of the

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<sup>3</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20237&LangID=E#>

Secretary General in Iraq, Ján Kubiš, expressed the same concern and underlined the urgent need for an independent investigation into these crimes<sup>4</sup>.

**Torture:**

Torture and other forms of cruel and inhumane treatment are routine methods used by the militias as part of their so-called fight against ISIS. As far back as 2005, allegations of torture have been rampant and several disturbing videos present on the Internet confirm such horrendous practices.

What is especially alarming is that the Iraqi government is unwilling, unmotivated and likely unable to control the militias.

**Destruction:**

Militias have paid a crucial contribution to the destruction of the country. It has been a common practice for them to enter villages and cities and then to proceed to loot, burn and destroy everything.

The destructive behaviour of the armed groups also extends to public buildings such as healthcare centres or school, causing problems that go beyond the relocation.

The targeting of religious buildings, along with the murder of many worshipers and religious leaders is also part of the intimidation technics used by the militias.

**The ultimate goal of the militias:**

There is little to no doubt that all the aforementioned crimes perpetrated by the militias occur on a sectarian and ethnic basis. These attacks, from the killings to the destruction of property, clearly target certain components of the Iraqi society with the purpose of “*homogenising*” the area. The pro-government militias have been carrying out the most heinous crimes of all, that of ethnic cleansing. Their ultimate goal being to obtain a “*demographical change*” in the areas inhabited by Iraqi Sunni Arabs.

Although displacement started after the 2003 US-led invasion, it has grown dramatically since 2006, reaching a first emblematic peak in 2016.

Two further large waves of displacement happened in the province of al-Anbar in the beginning of 2014 and in April 2015. According to the International Organisation for Migration, the total number of displaced people from this region reached 1.4 million at that time. Although these waves are partly due to the government bombardments, the role of the militias cannot be ignored.

The province of Diyala has witnessed an unprecedented increase of displacement as a result of the widespread practice of house looting and desecration of mosques directed against the Sunni Arabs since the beginning of 2016. This campaign of terror, aiming at degrading the group’s dignity in front of the community and their peers, was part of the ethnic cleansing carried out by the militias.

**The perpetual impunity:**

As already established back in 2005 by the report of the Human Rights Office of UNAMI, there is an explicit and direct link between the campaign of detentions, torture and extra-judicial executions and the Interior Ministry in Iraq. Consequently, no measures were taken in order to bring to justice the criminals.

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<sup>4</sup> <http://www.un.org/apps/news/story.asp?NewsID=54467#.V4ssR7h97IU>

This state of impunity did not change in the following years; on the contrary, the support of the Iraqi government to the militias has been increased. Most notably, the government has passed a decree formally bringing the Hashid militias under the command of the Prime Minister and, on 26<sup>th</sup> July 2016, officially incorporated the organization as an independent military formation into Iraq's security forces<sup>5</sup>.

As a consequence, these groups have been able to commit their crimes in total impunity. And in these circumstances, the corruption of the legal system, its politicisation, its inadequacy and its failure to meet international standards have also been a major contributing factor in fostering impunity in Iraq.

Addressing the destructive role of the militias must be a priority matter in order to enable the Iraqi people to eradicate the scourge of terrorism and establish a more just society which eliminates the consequences of war and occupation.

### **Conclusion and recommendations:**

- Member states to stop all direct and indirect encouragement and support to these groups.
- Adopt a comprehensive approach in the fight against terrorism, taking into account the role of the militias on the ground.
- Dispatch an independent commission of inquiry to investigate into the crimes committed by the militias and to consider ways to bring those responsible to justice.
- The Iraqi government and all involved parties to put an end to the sectarian discourse that today so often hampers Iraqi politics and religious speeches as well as international media.

Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, The Brussels Tribunal, General Arab Women Federation, The Iraqi Commission for Human Rights (ICHR), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, Association of Iraqi Diplomats (AID), Association of Humanitarian Lawyers (AHL), The International League of Iraqi Academics (ILIA), Women Will Association (WWA), Monitoring Net of Human Rights in Iraq (MHRI), Women Solidarity for an Independent and Unified Iraq, Alliance to Renew Co-operation among Humankind, International Coalition against War Criminals (ICAWC), Organization for Widows and Orphans (OWO), International Anti-Occupation Network (IAON), International Society of Iraqi Scientists, Children of Iraq Association (UK), 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, NGO(s) without consultative status, also share the views expressed in this statement.

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<sup>5</sup> Office of the Prime Minister, Office Order 91, 25 February 2016.