

((Unofficial translation))

# Reviewing human rights in Iraq

Report to  
The 7<sup>th</sup> session of the Universal Periodical Review

Submitted by  
Association of Human Rights Defenders in Iraq (AHRDI)

With the  
Arab Lawyers Network  
And  
International Association of Democratic Lawyers (IADL)  
September 2009

## **Executive Summary:**

*This report is submitted to the Office of the High Commissioner for Human Rights in the context of the universal periodic review on Iraq. The report addresses what we find as serious violations affecting the fundamental rights of citizens, such as the right to life, the right to liberty and personal safety, and the right to a fair trial. It addresses key issues such as forced disappearance, abuse of detainees and widespread systematic torture which continues till the time of presenting this report at the end of August 2009. It sheds light on the situation of impunity from punishment which leads to a fundamental violation of the rights of victims. The report concludes with several recommendations to the High Commissioner and the Human Rights Council and other related bodies.*

## **Proposals:**

*In the light of the grave abuses emphasised in this report, and confirmed by the reports of international organizations and non-governmental organizations, we propose the following:*

- 1. That the United Nations formulate a special mechanism to deal with the situation of human rights in Iraq, so that they become under constant surveillance, not as a substitute for UNAMI, but as support to strengthen its work and increase its effectiveness.*
- 2. Demand that, the Special Rapporteurs on torture, force disappearance, extrajudicial executions, the Special Rapporteur on the independence of the judges and lawyers to visit Iraq and make a field investigation regarding all the violations covered by the scope of their mandates.*
- 3. The High Commissioner should inform the Council of all matters relating to human rights developments in Iraq, depending on what it receives from UNAMI and other bodies, and civil society organizations.*
- 4. The Human Rights Council should take necessary decisions to put the situation of human rights in Iraq on its agenda.*

## **The right to life**

Since the US invasion in 2003, the right to life has been subjected to gross violation in Iraq. But since 2005, it took another course where the breach involved bodies associated with official authorities involved in serious violations in this area. Military operations, and what has been described as security plans carried out by US occupation forces with the participation of units of the Iraqi authorities, have led to systematic, deliberate and wide violations against the right to life of the Iraqi people. The result was that thousands were killed as a direct consequence of those operations. Moreover, security companies, which operated with the knowledge and acceptance of the Iraqi authorities, were involved in the killing of dozens without being subjected to investigation or accountability. The occupying forces have continued to grant immunity for their troops and the security companies, using the term "collateral damage" as a pretext for their protection and consolidating their "impunity" whenever it involve civilians' death. The Iraqi authorities have continued supporting that position. On the other hand, militias which are directly linked to the current authorities have continued to incite ethnic tensions and sectarianism with officially-sanctioned practices. They have continued attempting to divert suspicions blaming all acts of terrorism on armed groups or factions of the Iraqi resistance, and especially on the Baath Party and the Association of Muslim Scholars.

Thus, the right to life of every Iraqi, wherever he or she is, has become subject to violation. It came as no surprise when the United Nations Office of the Coordination of Humanitarian affairs said, "the right to life has become the main concern of the Iraqi civilians" as people were being killed by the Iraqi and occupying forces under the continuous excuse of "counter-terrorism". There is no doubt that terrorism is a gross violation of human rights, and there is no question regarding the direct responsibility of governments to combat and eradicate terrorism. But this responsibility does not justify in any way the violation of human rights under the pretext of combating terrorism. Unfortunately, the path taken by the war against terrorism has become an essential source of violation of dozens of rights, in a manner that undermines the human rights system as a whole. The Iraqi authorities have followed suit, especially when conducting joint operations with US forces.

Estimates vary on the number of Iraqis who lost their lives due to these operations and other acts of violence. The Iraqi government is criticised for, in addition to participation in committing such crimes, its failure to record and document deaths. On the contrary, it has begun hunting for anyone who tries to talk about the death toll. It has prevented providing United Nations Assistance Mission for Iraq [UNAMI] statistics on the number of deaths on many occasions. In 2006, the British medical journal 'The Lancet' published a solid study that estimated the number of Iraqi deaths since the invasion in 2003 to be more than 650,000 people. In January 2008, Britain's Opinion Research Business (ORB), after conducting field surveys, announced that the number of Iraqis killed since the 2003 invasion is around 1,030,000 people.

Examples drawn from official reports (in 2007 as an average for the last four years) show the extent of disrespect for the whole people's right to life:

- The International Red Cross announced in August 2007, that the Institute of Forensic

Medicine in Baghdad had received more than 10 thousands of unidentified bodies during the period between August 2006 and August 2007.

- UN mission [UNAMI] in its reports documented the following: During the year 2007, there were 1990 civilians killed in January, 1646 killed in February, 1872 in March, 1501 in April, 1949 in May, 1227 in June, 1653 in July, 1773 in August, 844 in September, 758 in October, 2000 in November, and 481 in December. These statistics are from official reports, which often attempt to minimize losses.

**Other documented examples of violations of the right to life, from 2007, only are as follows:**

- On 4th November 2007, US occupation forces killed "Sheikh Ahmed Ghidan al-Dulaimi" and his family, which consisted of six members. They demolished their house in Kubaisa city, west of Ramadi city, during a bombardment of Bawi area in Madaen District.

- On 23rd October 2007, a US helicopter launched a strike north of Baghdad that killed 16 people including 4 women and 8 children. The American occupation forces claimed that the raid was aimed at men planting roadside bombs.

- On 14th October 2007, US occupation forces committed a massacre in Lake Thar Thar region that claimed the lives of 34 Iraqi civilians, including six women and nine children.

- On 21st September 2007, US occupation forces shot dead a family of seven people north of Hilla, including women and children for allegedly belonging to a militia in the Alexandria area. The US forces booby-trapped the house and blew it up later. Followed were clashes between US troops and gunmen in the city that resulted in the deaths of 12 civilians.

- In August 2007, US occupation forces shelled a house in the city of Samarra while hunting for gunmen, killing a number of civilians, including five children and two women.

- In the same month, during the so-called "Operation Phantom Strike," claiming the eradication of terrorism and draining its resources, US soldiers committed a new massacre in Diyala after they bombed the house of "Thaer Salem Dawood al-Majmaei", killing 34 people during their sleep.

The United Nations Assistance Mission for Iraq recorded incidents that killed 88 civilians during the period from April to June during military operations launched by the US occupation forces in Baquba, Dhuluiya, Salah al-Din, al-Sadr City, Basra and Taji.

- On July 23rd 2007, US Marines opened fire on a civilian car carrying a family of five people, including three children, in the area of Mahmudiyah, south of Baghdad, resulting in the death of all its passengers, especially after denying ambulances access, claiming the car was booby trapped.

- In July 2007, US occupation forces committed a terrible massacre in the Khatoon district in Diyala, as part of "Operation Penetrating Arrow", where a US helicopters bombarded more than 20 houses and bringing them down on the heads of their inhabitants. The US move was

apparently in retaliation for the fleeing of some men in the area who feared arbitrary arrest campaigns. **The US strikes killed more than 350 civilians**, mostly children.

That the involvement of the Iraqi Interior Ministry and other government ministries in serious violations of the right to life is no longer in need of further proof, as can be noted from daily reports of the Iraqi media, NGOs, as well as reports of UNAMI. Even the US State Department, despite its attempts to cover up what is going on, has admitted in its human rights report, issued in March 2008, the involvement of the Ministry of Interior with "death squads". As for the prisons under the control of the Iraq government, they have become a centre for assassinations and murder. Although the Iraqi government announced the formation of a committee to investigate the incidents involving the security forces and the army in death squads and assassinations, so far any results of the investigation have yet to be announced. It has become clear from the large number of investigative commissions that the formation of these committees was an attempt to reduce the responsibility of the authorities, as well as to dilute the issue.

In February 2007, US forces arrested a number of officials from the Iraqi Health Ministry, including the Deputy Minister, for being responsible for the assassination of hundreds of Iraqi Sunni patients and their families in hospitals in Baghdad. This is in addition to the involvement of more than 150 members of staff of the Ministry of Health in the use of ambulances to transport weapons and kidnapping people and then kill them in accordance with a sectarian agenda since 2005 and until early 2007 (US state department-HR report 2008).

If this the case of a health ministry, we have to imagine how much is perpetrated by the security services and the ministry of Interior. Among the features of the systematic violation of the right to life at the hands of Iraqi security, is the statement made by a detainee, a former officer who was released in August, during a testimony made to the Iraqi Human Rights Association: He said the detainees in the prisons of the Ministry of Interior in the municipalities are suffering from physical liquidations at the hands of prison guards, who kill detainees systematically after torturing them, and then throw their bodies in the streets and waterways. The United Nations Assistance Mission for Iraq report noted the involvement of elements of the Iraqi security forces in the assassination of 14 civilians in the Jihad neighbourhood on the 4<sup>th</sup> of May, while on the 3<sup>rd</sup> of May members of the Iraqi security forces assassinated 16 Iraqi civilians in Baghdad's al-Aamel district.

It is difficult to determine the number of detainees who died as a result of torture in the prisons of US occupation forces in Iraq. The reported involvement of the security services in dozens of cases of murder as a result of torture continues. Despite the difficulty of determining actual figures, it can be argued that torture-murder phenomenon is worsening day after day in the country. Hundreds of dead bodies are scattered around the country bearing signs of torture, but the difficulty lies in determining the responsibility of these deaths, which are committed by US occupation forces, Iraqi security forces, death squads and dozens of militias.

During July 2007, a mass grave containing more than one hundred bodies of civilians from the population of Madaen were found. The testimonies of their relatives emphasises that most of them were abducted by members of the Iraqi police, during raid and arrest campaigns in

the first half of the year, claiming to "cleanse the city of terrorists," a term that has become used to justify such operations. On July 7<sup>th</sup>, Iraqi security forces intercepted a transport truck carrying 15 civilians working for a soft drinks factory, kidnapped them in Wardia city in Madaen, and executed 13 of them, while two managed to escape after being wounded. On 27<sup>th</sup> of March, a police unit killed 70 civilians in the city of Tal Afar, apparently motivated by revenge after a truck bomb in another neighbourhood exploded in the city and killed dozens of civilians. According to witness statements, police officers arrested the victims from their homes, handcuffed and blindfolded, and then executed them. The Iraqi government admitted in the wake of the incident that members of the police force were behind the killings, saying it had arrested 13 policemen linked to the incident, but they were released after a brief period.

**Targeting special group or profession:**

**Academics:** The phenomenon of the assassinating Iraqi academics and scientists reflects the most prominent manifestation of the violation of the right to life, amid suspicious silence and official complicity. Well informed sources familiar with the situation in Iraq point to the deaths of more than 500 hundreds of university professors and scientists since 9th April 2003, prompting three-quarters of Iraq's scientific talents to flee the country.

**Judges and Lawyers:** Targeting the judiciary also continues. During the period from July 2005 to December 2007, 24 judges were assassinated, in addition to the deaths of other judges during suicide bombings. The judges liquidated are often those who refuse to comply with orders from the authorities to issue certain rulings. Lawyers defending members of the Iraqi government that ruled Iraq before the US occupation were subjected to assassinations. Evidence points to the involvement of influential governmental bodies in these assassinations, which often coincides with continuing attempts to block their performance in court.

**Journalists:** *Journalists were* among the targeted group. Iraq has been described during the past four years as a "graveyard for journalists", where the death toll of journalists and media staff reached 200 since the US invasion in March 2003. During the year 2007 alone nearly 64 journalists and media workers were killed, including 24 cases of intentional killing. Despite the fact that these crimes are often recorded against an unknown agent, the fingers were frequently directed at members of the government, amid clear indications of its targeting reporters under the pretext that they support terrorism.

**Violation of women's right to life:** Since 2003, women in Iraq have been subjected to various forms of denial of their rights, but the most striking feature is the violation of their right to life. There is no precise count of the number of deaths of women. Their causes of death remain one of the current challenges in Iraq. Most of their bodies have been left in morgues' refrigerators unclaimed for fear of damaging the family reputations. There are rising rates of murders recorded as "honour crimes". This is particularly the case in Iraq's predominantly Kurdish region in the north. According to official statistics and statistics of the United Nations, more than three hundred women die annually in the governorates of Dehuk, Sulaymaniyah and Erbil only. Statistics show that among them are nearly two hundred women killed by burning. An investigative committee has been set up to dilute the issue, as it was the case with other issues.

**Disappearance:**

Fear damages the lives of thousands of Iraqi families inside and outside Iraq. For years they have been searching for sons and relatives that had disappeared after being arrested by the

Iraqi authorities while at homes or in the workplace or in the market. But the authorities refuse to recognize the existence of these detainees. This type of violation is prominent feature in the lives of Iraqis, particularly in the years 2005-2007, where security or military units would often come and arrest all youth in a certain area and then later deny that they have them in their hold. There are no accurate figures for those who disappeared but civil society organizations in Iraq assert that they are in the thousands. The Iraqi authorities do not allow families of those who had disappeared to properly search for them. They often provide vague answers and try to stick the blame on gangs or terrorist organizations, even though it was their apparatus which made the arrests. The authorities also do not carry out thorough investigations or inquiries. This is encouraged by the policy of ambiguity followed by US occupation forces and the growing phenomenon of secret US prisons of America, which even international organizations have failed to locate. Add to that the large number of Iraq's secret prisons, which one member of the current Iraqi parliament estimated to have exceeded 420 secret prison.

Meanwhile, the report issued by the International Red Cross during this year, notes that the number of missing in Iraq has reached one million people, based on government sources and reports. The report pointed to the breakdown of efforts for the search for those missing and investigating their fate because the deteriorating security situation. The report criticized the policy of secrecy pursued by the occupation forces and that of the Iraqi government over the number of detainees and missing persons.

### **Violation of the right to liberty and personal safety**

Iraqis are subjected to comprehensive and systematic daily violations of their right to liberty and personal safety. Many parties conduct raids on residential areas, especially at night, causing tremendous panic for women and children.

#### ***Abuse of detainees***

Camps and detention centres run by the Iraqi authorities have witnessed continuous deterioration in the conditions and ill-treatment of detainees. The situation is becoming even worse with the accumulation of large numbers of detainees beyond the capacity of these places as a result of large-scale arrests that accompanied the so-called security plans that have been implemented during the year. In addition to the lack of health care and the absence of a system of prison administration, there is a delay in presenting the detainees' cases and the detention of the majority of detainees is extended after the first review of their cases. This is also confirmed by UNAMI in their periodic reports, as well as the Iraqi Human Rights Minister, and a number of Iraqi MPs of the current parliament.

Although Iraq over the past two years has issued many decisions and decrees, and formed several committees in order to regulate the affairs of the detainees and to resolve their cases quickly, until the preparation of this report (August 2009), the situation of Iraqi detainees is so intolerable that it is difficult to even begin to describe. Arrests are made without warrants, detainees are not allowed access to counsel during interrogation, which are often conducted by the same units that made the arrests and could involve various forms of humiliation and torture. Only a few of them appear before a judge during the period of detention, which may last for years.

On the other hand, increasing number of judicial authorities and personnel did not have an effect in facilitating the completion of cases of thousands of detainees. Although there are

now scores of investigative commissions, it did not contribute to resolving the problem because the Iraqi authorities continue to make arrests almost daily.

The number of Iraqi prisoners held by occupation and Iraqi forces remains unknown. Although both parties are announcing their own figures, evidence shows that these "official" figures do not represent in any way the real number of detainees. Observers familiar with prison conditions say that there are likely to be nearly two million Iraqis who were subjected to detention in one form or another over the past years, taking into account the security plans that continue to be implemented by occupation forces in cooperation with the Iraqi government under the pretext of controlling the violence gripping the country.

According to the press releases of the US military, only 10% of the detainees are actually accused of specific acts and practices, and are referred to Iraqi judicial investigators to examine the allegations. If there is evidence, then they would be referred to the courts for trial, and if convicted, would serve their sentences under the authority of the Iraqi government. However the remaining 90% are not being charged with anything and their cases are examined by the occupation forces themselves.

One of the issues that made matters worse, is that the American forces kept handing many of the detainees to Iraqi authorities. These detainees had spent several years in prisons run by the occupation forces, and they had been interrogated in the ugliest ways, yet the occupation forces could not charge most of them with anything. But now they will enter another cycle of suffering after becoming under Iraqi control: another cycle of inhuman treatment and torture.

Even those who were released by US forces after years spent in jails without any charge, are now being arrested by the Iraqi authorities. So once again they become subjected to torture. The families of these detainees have reported their complaints to humanitarian organizations and to the International Committee of the Red Cross, but despite their efforts nothing changed on the ground.

In the northern region of Iraq, the authorities in the provinces of Erbil, Dehuk and Sulaymaniyah continued to arrest suspects without warrants and hold them indefinitely without trial, which led to the accumulation of thousands of detainees in detention centres and prisons that do not meet the most basic humane conditions. Most of these detainees were arrested under the pretext of belonging to terrorist groups or the "possibility" of having committed terrorist acts. In some cases, detainees spent six years in detention without charge. One of the essential violations is that the three provincial authorities have been detaining a lot of people from other provinces, i.e. areas outside the scope of their jurisdiction powers. These cases are not referred to the courts, but the detainees continue to suffer torture and other cruel and inhuman treatment by the Kurdish units of Peshmerga and Achayes without any regard for the principles of human rights.

### ***Torture in Iraqi prisons***

Torture has become systematic conduct universally applied in all prisons and detention centres in Iraq. This does not need a lot of trouble to prove. In addition to reports of non-governmental organizations and testimonies of a number of those who have been tortured, frequent statements by members of the Iraqi authorities admit this matter, in addition to statements of members of Parliament. As for the United Nations, reports of UNAMI stressed that torture or ill-treatment of detainees occurs on a large scale and routinely, especially at Ministry of Interior detentions, including police stations. UNAMI has documented many of these issues and was able to interview victims and be sure of their cases after their release, or

after trial and being transferred to the custody of the Ministry of Justice. UNAMI reports that that forms of torture ranging from beatings with hoses, cables and sharp tools, to burning and pouring petrol on the bodies of detainees to forcing detainees to sit on sharp objects to using electric drills to sexual assault.

There is an escalation of systematic torture of detainees in prisons run by the authorities in the governorates of Erbil, Sulaymaniyah and Dehok. According to interviews conducted with citizens of these provinces, the detainees face terrible forms of abuse and torture. This was confirmed by UNAMI in its reports in 2007-2009, which support the claim that detainees were abused particularly during the investigation stages, while being prevented from access to legal advice during investigation and trial periods. In a report issued in July 2007, UNAMI said that about 48 of the 66 detainees have said in their testimonies that they had been tortured. One of the judges said that detainees who appeared before them to show injuries of torture. The testimonies of former inmates we met match those of UNAMI in its March 2009 report, which states that torture was conducted by masked men, sometimes after blindfolding of the detainees being tortured.

***Impunity:***

Impunity remains a dominant feature, as perpetrators of the above-mentioned crimes often received immunity in advance, by official US or Iraqi procedures that take a variety of methods. Such procedures include the decisions of US Administrator in Iraq Paul Bremer in 2003, which granted absolute immunity to American soldiers and security companies. These laws remained in force. The Iraqi government now bear the primary responsibility for such immunity because although it protested them it did nothing to change these laws. Practical evidence shows that the government did not take appropriate legal action to try all of those who were responsible for these crimes. As for the US accountability procedures, it is clear that they have been devised to absorb the public anger only, then either dropping charges or handing extremely light sentences that do not match the ugliness of the crime committed.

***Examples:***

In late July, the US Marine Corps dropped all charges directed against Captain "Randy Stone" due to failure to investigate impartially the death of 24 Iraqi civilians by US soldiers fire in one of the worst American massacres known as "the Haditha massacre". Charges were also dropped the charges against "Justin Sharratt" who took part in murdering three Iraqi brothers after the explosion of a roadside bomb targeting US occupation forces on a road.

In addition to what is being committed by US and Iraqi forces, what security companies under contract with the United States government are doing is an unprecedented flagrant violation of the right to life. Members of these companies only know one thing and that is "killing". This it seems is their sole responsibility. That is why they are killing every day in cold blood and seem to be enjoying it, disregarding all values of humanity. They would not do so without the formal approval of the authorities in Iraq.

Another example is when a subcommittee of the US Congress noted that the security Blackwater alone committed 200 criminal incidents in Iraq since 2005. Official sources say that the Iraqi government had prepared a draft law to lift the immunity of private security contractors, but the law has not seen the light yet.

The Iraqi authorities only paid attention to one incident of those committed by Blackwater: the one committed on 16<sup>th</sup> of September 2007 at the Nisur Square in Baghdad when its mercenaries opened fire on indiscriminately on civilians, killing 17 Iraqi civilians. The Iraqi



government has demanded firm Blackwater a compensation of \$ 8 million to each of the families of the victims, but the company did not comply. On the 9th of the same month, Blackwater contractors had shot dead five civilians in Baghdad. On February 7th 2008, Blackwater contractors killed three guards of "Al Iraqiya" television station. They had also murdered an Iraqi journalist near Iraqi Foreign Ministry in Baghdad on February 4th, and killed another Iraqi citizen near the Iraqi Interior Ministry in Baghdad in May.

**Violation of the right to a fair trial:**

Although a text on the principle of the independence of the judiciary is included in the "Iraqi Constitution" published in 2005, the dominance of the executive authority over the judiciary in Iraq is very clear. This includes dominating the financial and administrative aspects, directly or indirectly. It also includes the mechanism for the appointment of the judiciary, their dismissal, imprisonment and even execution (as in the case of the judge Awad al-Bandar who was executed in 2007), which is in violation of the principle that prevents the dismissal of judges for reasons related to their work.

One of the additional difficulties that hinder the work and independence of the judiciary is the disrespect of the right of legal defence, largely a result of the dominance of the executive authority the judiciary on the one hand, and as a result of the non-recognition of the importance of representing the accused legally before the courts, on the other, where the authorities have the obligation in Iraq to hire a lawyer, whether on full or partial basis.

Among the most serious phenomena that threaten the right to a fair trial in Iraq is the phenomenon of exceptional courts that includes the special courts which were established after the occupation for specific purposes. The "Supreme Iraqi Criminal Tribunal", which was founded by the US Administrator of Iraq, Paul Bremer under the law No. 10 of 2003 is one example.

During the first days of US-led occupation the **death penalty** was abolished. This was seen as a major achievement which the occupation authority had kept boasting about. However, on the 8<sup>th</sup> of August 2004, the death penalty was re-instated, and "laws" were passed that permit applying the punishment retroactively, on the actions of the executive branch since 1968. At the same time, the penalty was excluded from being applied to acts carried out by the authorities in power after 2003. The "new laws" also made the death penalty applicable to wide range offenses. Likewise, the Anti-Terrorism Act No. 13 of 2005 has opened the door for the application of the death penalty to many vague and unspecified cases, which means judgment would be passed based on the often desires of the executive authority or according to moods or leanings of judges.

Despite the statement by the Minister of Human Rights in March 2007 before the UN Council of Human Rights which stated that the Iraqi government has taken the necessary actions and measures to end the death penalty, the fact is that the Iraqi government voted against the decision of the General Assembly of the United Nations of 18 December 2007 to suspend the death penalty.

During the past four years, hundreds of death sentences carried out after trials marred by a significant lack of compliance with fair trial standards.

In 2007 alone, the "Central Criminal Court" issued 378 death sentences, ten of them were women. This is also confirmed by UNAMI, which emphasised that serious irregularities were taking place concerning pre-trial detention and the lack of international standards for fair trial.

During the same year (2007), about 7447 cases were referred to the above mentioned court, where 2538 convictions were passed, with various sentences, 116 of them were related to minors.

During the trials, the defendants or their lawyers have often stressed that confessions had been extracted under threat during the period of detention. But the court continued to pass its verdicts based on those confessions. As an example: on 10th September 2007, three Syrians were tried on charges of belonging to "1920 Revolution Brigades" and for possessing weapons illegally. The judge based his ruling on the confessions the suspects made to the Ministry of the Interior, in spite of objections by made by their lawyers that these confessions had been extracted under torture while in detention at the notorious Jadriyah centre in Baghdad. But the court went on to pass life sentences against the three accused.

It must be noted here that most of the rulings of the "Iraqi Higher Criminal Court" had a large share of the criticism directed to the performance of the judicial system in Iraq during the past four years. It is clear that the Court's decisions were issued at the wishes of the government and it lacked of justice. The most striking example of this is the way the trial of former Iraqi President Saddam Hussein, the sentence that was passed on him, and method of execution. His trial procedures showed unequivocally that the court lacks the most basic standards of fair trial. It did not take into account the defendant's right to an effective defence on charges punishable by death. Even during the times the lawyers were allowed to attend, we noted that the Court put obstacles to their performance. They were often interrupted by the judge and threatened with expulsion, and some of them were expelled indeed. Outside the court, lawyers were threatened, and two of them were kidnapped and murdered. As for the verdict that handed down the death penalty, it represented the wish of the government which had been repeatedly announced even before the trial began. Members of the government had often sated that President Saddam Hussein should be executed, and some of them said that they were surprised that there was even a trial, calling for his execution without trial. After the passing of the verdict, appeal procedures were not permitted to take place properly. The appeal procedures were not overseen by the Iraqi Cassation Court, but by another 'Chamber' within the same court that passed the original verdict, where judges were not expect to overturn a ruling of their court.

During this period, calls were made from the High Commissioner for Human Rights, the UN Special Rapporteur on the independence of the judges and lawyers urging the Iraqi authorities not to implement the execution verdict, as the trial has been marred by serious shortcomings. But the authority did not heed. As for the execution itself, it was carried out in an atrocious manner which disgusted observers from various parts of the world. The execution was shown on world television screens via mobile phone recordings, which gave evidence of how violations were committed till the last moment. Saddam was being insulted as he stood on the gallows. The phone recordings also showed the Court's Prosecutor dancing next to the dead body of Saddam Hussein, which had signs of mutilation.

The court continued with its procedures with other cases without changing its method. It convicted several members of the Iraqi government that ruled before the US-led occupation on charges of genocide, crimes against humanity and war crimes, but those sentences were passed under a clear violation of fair trial standards. These include making vague accusations which directly affect the right of the accused to defend themselves; the court's refusal attendance permit the testimonies of witnesses for the defence; not allowing the defence counsel to question the accusers and witnesses for the prosecution. These court procedures went on rejecting criticism criticisms and calls for the most basic rights guaranteed by the principles of human rights for the accused.

In March, the late vice-president "Taha Yassin Ramadan," was executed after the Appeals Chamber in the Iraqi High Tribunal **change the sentence from life in prison to death** by hanging. This was happened while Ms.Louise Arbour, the then High Commissioner for Human Rights, appealed to the Iraqi authorities not to enforce the death sentence because it passed after a trial marred by flaws. She had also sent a detailed legal opinion on the issue on the 9<sup>th</sup> of February 2009, explaining that no fair trial could be conducted in Iraq while it passé through unstable situation, but it fell to death ears by the Iraqi authorities.

Another matter of rising concern for human rights organizations is the situation of persons convicted in the provinces inhabited by a Kurdish majority (Erbil, Dehuk and Sulaymaniyah), particularly those facing the death penalty. They have been deprived of the necessary legal procedures and the minimum requirements of a fair trial. There is a rise of the death penalty since it has been instated by "the Kurdistan National Assembly" in 2006.

During interviews in 2007 37 out of 48 prisoners held in custody told UNAMI that they were not able to seek counsel in a timely manner, and they were not given given adequate opportunity to discuss their cases with their lawyers. With respect to appeals, UNAMI has expressed concerns about violations related to trials and stressed the absence of fair trial practices.

**Proposals:**

In the light of the grave abuses emphasised in this report, and confirmed by the reports of international organizations and non-governmental organizations, we propose the following:

1. That the United Nations formulate a special mechanism to deal with the situation of human rights in Iraq, so that they become under constant surveillance, not as a substitute for UNAMI, but as support to strengthen its work and increase its effectiveness.
2. Demand that, the Special Rapporteurs on torture, force disappearance, extrajudicial executions, the Special Rapporteur on the independence of the judges and lawyers to visit Iraq and make a field investigation regarding all the violations covered by the scope of their mandates.
- 3, The High Commissioner should inform the Council of all matters relating to human rights developments in Iraq, depending on what it receives from UNAMI and other bodies, and civil society organizations.
4. The Human Rights Council should take necessary decisions to put the situation of human rights in Iraq on its agenda.

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