

# Iraq

## The need to deploy human rights monitors

Amnesty International is calling on the United Nations (UN) Security Council to authorize the deployment of UN human rights monitors throughout Iraq and on the Iraqi government and the Kurdish authorities controlling parts of northern Iraq to provide the monitors with all the necessary access and cooperation.

Amnesty International believes that this initiative, which is based on UN recommendations, is both timely and appropriate. Whatever the outcome of the debate on the disarmament of Iraq, the protection of the human rights of the people of Iraq will remain a central concern. Concrete measures to address the human rights situation in Iraq must be considered as a matter of urgency regardless of whether there will be a major military action in Iraq.

In this context, Amnesty International believes that, as part of a program of human rights reform, the deployment of UN human rights monitors in Iraq can make a crucial contribution to addressing human rights concerns in the country. Human rights monitors are needed now to address current concerns. They will be needed just as much to address concerns arising in the immediate aftermath of any military action and subsequently.

In its resolution 688 (1991), which is recalled in resolution 1441 (2002), the Security Council demanded that Iraq “immediately end” the “repression of the Iraqi civilian population” and allow access by humanitarian organizations to all those in need of assistance. Since 1993, the UN General Assembly and Commission on Human Rights have repeatedly requested the deployment of human rights monitors throughout Iraq, within a broad set of measures aimed at strengthening the protection of human rights in the country.

### *Human rights concerns in Iraq*

The human rights situation in Iraq remains grave. Amnesty International continues to campaign against systematic and widespread human rights violations including suppression of freedom of expression and association; extrajudicial killings, “disappearances”, torture, arbitrary arrests, unfair trials and the use of the death penalty and other cruel, inhuman and degrading punishments. Victims have included officers suspected of plotting against the government and other suspected political opponents; their relatives, as well as relatives of opponents residing abroad; and members of religious and ethnic groups, particularly Kurds and Shi’a Muslims.

The General Assembly, in its latest resolution 57/232 of December 2002, has strongly condemned the suppression of freedom of expression and association; the harassment and intimidation of Iraqi opponents and their families; the widespread use of the death penalty; summary and arbitrary executions; "disappearances"; arbitrary arrests and detentions; consistent and routine failure to respect the rule of law; and widespread, systematic torture combined with decrees that prescribe cruel and inhuman punishment as penalty.

In the same resolution, the General Assembly called for a range of important human rights measures additional to the deployment of human rights monitors. They include a moratorium on executions and the end of summary and arbitrary executions; the establishment of the independence of the judiciary; the end of torture and the abrogation of decrees that prescribe cruel and inhuman punishment; the end of the repression of political opponents and of ethnic and religious groups; and cooperation with the mechanisms of the Commission on Human Rights, including the Special Rapporteur on Iraq and the Working Group on Enforced or Involuntary Disappearances.

In his latest report to the Commission on Human Rights in January 2003 (E/CN.4/2003/40, para 29), the Special Rapporteur on Iraq concluded that "whatever the developments in Iraq, human rights must be given the highest priority for the future. This should include a human rights presence in Iraq that, in cooperation with the Government, would ensure that appropriate legislation, practices and institutions for the implementation of human rights norms are in place, and at the same time monitor compliance with these norms, make recommendations and report as appropriate".

#### *Human rights monitors can make a difference*

Human rights monitors are needed now to address the current grave human rights concerns in Iraq. They would also play a crucial role in the immediate aftermath of any possible large-scale military action against Iraq, as the human rights situation in the country may deteriorate further. In particular, there is a risk of human rights abuses by the Iraqi authorities, armed groups allied or opposed to the Iraqi government, other parties involved in the military operations, and reprisals on ethnic or other grounds. In the longer term, as part of a program of reconstruction, a human rights field presence in the country would provide necessary expertise and advice for legislative and institutional reform and the establishment of the rule of law.

Human rights monitors could provide some measure of protection by proactively addressing the authorities in seeking redress for violations. They would work to ensure the establishment of durable human rights safeguards, including reformed legislation, practices and institutions, and promote the full range of human rights. They should stay as long as necessary.

Human rights monitors are not only important as an immediate protection mechanism and to verify compliance with international human rights standards. Human rights monitors would also provide independent, authoritative and timely information and analysis on the human rights situation within the country, as well as recommendations for remedial and preventive action. They would therefore make a crucial contribution to decisions that the Security Council, the General Assembly and the Commission on Human Rights will be making concerning Iraq.

*A comprehensive and strong monitoring mandate*

The mandate of the human rights monitors should cover human rights abuses in Iraqi territory by *any* party, including the Iraqi government, the authorities controlling northern Iraq and any other party that may be involved in military action against Iraq.

There will be a need for sufficient resources to establish a visible and effective field presence in all regions of the country. Monitors should have the widest powers of access to documents, people and places, including known or suspected prisons and detention centres. All relevant authorities should be required to cooperate, including by assuring the confidentiality of interviews with detainees and others whenever requested.

The reports of the monitors should be made regularly and frequently available to the Security Council, as well as the General Assembly and the Commission on Human Rights.

*Flexible arrangements*

It is essential that arrangements for the speedy deployment, as circumstances permit, of sufficient numbers of qualified human rights monitors begin immediately, with all the necessary resources made available. Human rights monitors can initially be deployed in northern Iraq, if immediate access to the rest of Iraq would not be allowed by the Iraqi government or be impracticable for security or other reasons. They could also operate from changing locations in neighbouring countries, as when they assisted the Special Rapporteur on Iraq from August 1993.

*Precedents of human rights monitoring on Iraq*

Following the 1991 Gulf War, Amnesty International called for the deployment of UN human rights monitors in July 1991 (see *Iraq: The need for further United Nations action to protect human rights*, AI Index: MDE 14/06/91). It called again for such deployment in an intervention before the Commission on Human Rights in 1992 and has supported this initiative ever since, most recently in a letter to the Security Council on 7 February 2003.

A number of initiatives by the Commission on Human Rights and the General Assembly built towards this proposal. In resolution 1991/74 of March 1991, the Commission on Human Rights established a Special Rapporteur to look at “the flagrant violations of human rights by the Government of Iraq” and report to the General Assembly as well as the Commission.

Max van der Stoep was the first Special Rapporteur on Iraq. He first visited the country in January 1992 and in his report to the Commission on Human Rights the following month he suggested the idea of monitors as an “exceptional response” warranted by an “exceptionally grave situation”. The Special Rapporteur recommended that the monitors should remain in Iraq “until the human rights situation had drastically improved” and said that they “should be able to: (i) move freely in any part of Iraq; (ii) investigate information concerning alleged violations of human rights; (iii) visit, without prior notification and at the time of their choosing, places where persons are deprived of their liberty; and (iv) observe trials and court proceedings.” (E/CN.4/1992/31, para 156).

In this same report (para 159) the Special Rapporteur referred to Security Council resolution 688 and argued that in as much as the repression of the Iraqi population continued, “the Special Rapporteur can only conclude that the threat remains and thus extraordinary measures, such as the recommended broad-based human rights monitoring operation, are warranted.”

The Commission on Human Rights then adopted resolution 1992/71 in March 1992 requesting the Special Rapporteur to “develop further his recommendation for an exceptional response” in consultation with the Secretary-General. The Security Council was briefed directly by the Special Rapporteur in August and November 1992.

The main elements of the monitoring scheme were set out in an interim report by the Special Rapporteur to the General Assembly in August 1992 (A/47/367 - section III). The aim was to provide a continuous flow of information through the operation of a number of mobile teams of monitors to be sent to Iraq. Without the benefit of the experience of other field operations involving considerably higher numbers of monitors, the plan envisaged 50 monitors, organized in teams of three monitors, with a lead team in Baghdad and local offices in selected cities. They would have reported directly to the Special Rapporteur.

The Commission on Human Rights eventually endorsed the Special Rapporteur's proposal in March 1993, by adopting resolution 1993/74 which requested the UN Secretary-General to send human rights monitors "to such locations as would facilitate improved information flows and assessment and would help in the independent verification of reports on the situation of human rights in Iraq". The Commission renewed its call for monitors most recently in resolution 2002/15 of April 2002.

In December 1993, in resolution 48/144, the General Assembly welcomed the deployment of monitors in northern Iraq and requested that they be deployed throughout Iraq. It has since reiterated such request annually, most recently in resolution 57/232 of December 2002.

Human rights monitors were active between 1993 and 1998. However, Iraq did not grant them access, so they operated in small teams based in Geneva and travelling to collect information in countries neighbouring Iraq. They thus visited Jordan, Iran, Turkey, Lebanon, Saudi Arabia and Kuwait.

In his last report to the Commission (E/CN.4/1999/37, para 88) in February 1999, Max van der Stoep said: "it is to be noted that the United Nations has consistently supported implementation of a human rights monitoring mechanism in Iraq, notwithstanding the persistent refusal on the part of the Government of Iraq to accept human rights monitoring." The Special Rapporteur indicated that he had last sent an information-gathering mission in December 1998, when one monitor visited Kuwait.

There have been no missions by human rights monitors since the appointment of the second and current Special Rapporteur on Iraq, Andreas Mavromatis, who took up his functions in January 2002.

*Take action now*

Promoting and encouraging respect for human rights is one of the fundamental purposes of the UN set out in Article 1 of the UN Charter, and as such binding on all UN organs. All member states of the UN are committed, pursuant to Articles 55 and 56 of the Charter, to act jointly and separately in cooperation with the UN to achieve universal respect for and observance of human rights.

The Security Council has repeatedly reaffirmed its concern for human rights in a range of recent resolutions and Presidential statements and with regards to several country situations, including Iraq. The Council has also facilitated humanitarian assistance and human rights monitoring, recognizing that the stationing of monitors can make an effective contribution to protection in a number of countries. It is time to do so also with regard to Iraq.