

AMNESTY INTERNATIONAL

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Iraq: Amnesty International calls for a human rights based constitution

Amnesty International believes that the next 10 days present a unique opportunity for Iraqis to adopt a constitution that enshrines fundamental international human rights principles and standards.

On Sunday, 5 August 2005, leaders of major political parties in the Iraqi Transitional National Assembly, including President Jalal Talabani and Prime Minister Dr Ibrahim al-Ja'fari, as well as members of the Constitution Drafting Committee (CDC) will start debating the draft constitution with a view to finding a consensus on a few major contentious issues which members of the CDC were unable to solve. Among these issues are federalism, the future of Kirkuk, the role of Islam in legislation and women's rights. The final draft of the constitution will be submitted to the Transitional National Assembly for discussion and approval by 15 August and then it will be put to a referendum by 15 October 2005.

Amnesty International welcomes the drafting of the new permanent constitution which encompasses many guarantees for the protection and promotion of human rights, including the prohibition of torture, the right to fair trial and freedom of expression and assembly.

However, many women's groups have voiced concerns about certain provisions contained in the current draft, especially the one which stipulates that Islam is the main source of legislation. There is concern that Islam may be used to perpetuate discrimination against women and other forms of discrimination.

Amnesty International calls on the Iraqi authorities to ensure that the new constitution will reflect, without any ambiguity, all fundamental human rights guarantees which are found in international human rights treaties, many of which have been ratified by Iraq. Amnesty International recommends that all rights guarantees in international human rights law apply to all persons without any discrimination.

Firm and unambiguous constitutional guarantees are vital for the protection and promotion of human rights, especially in a country that saw gross and endemic human rights atrocities over a period of three decades. Amnesty International urges that the issues listed below be given due attention in the forthcoming debates:

address concerns that Islam may be used to perpetuate discrimination against women and ensure that the constitution prohibits unequivocally discrimination on the basis of gender and promotes women's full rights;

prohibit discrimination on all grounds included in international human rights treaties;

make a specific reference to international human rights law as one of the sources of national legislation. In case of conflict between national and international laws, the Constitution should specify that international law should prevail;

emphasise that all human rights, including civil, cultural, economic, political and social are protected and are indivisible;

protect the rights of the child as guaranteed in the UN Convention on the Rights of the Child, including the definition of the child as "every human being below the age of eighteen", as well as the prohibition of the recruitment or enlistment of children under 18 years into armed forces (or groups), and their use in hostilities;

abolish the death penalty which Amnesty International considers to be the ultimate cruel, inhuman and degrading punishment and violates the right to life;

establish universal jurisdiction for the crimes of genocide, crimes against humanity, war crimes, torture, extra-judicial executions and "disappearances".

prohibit discrimination and protect rights to all those under the jurisdiction of Iraq, according to international human rights law, and not only to Iraq citizens. Only specific rights can be limited to citizens, in a way consistent with international human rights law.