

# AMNESTY INTERNATIONAL PRESS RELEASE

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## **Iraq: Only justice can serve the future of Iraq**

Amnesty International welcomes the arrest of Saddam Hussein who is accused of gross human rights violations, including war crimes and crimes against humanity. A fair and independent trial that meets international standards is now essential.

"The way this trial is handled will be crucial for the future shape of Iraq and the extent to which the rule of law will be respected," said Amnesty International. "It is important for the truth to emerge but equally important for justice to prevail."

Whatever court will try Saddam Hussein and others should be fair and be seen to be fair. It must be competent, independent and impartial, and follow procedures that are fully consistent with international safeguards for fair trial.

"The gravity and scale of the violations of which Saddam Hussein has been accused underscore the paramount importance that he be brought to justice in a manner that is unquestionably fair," said Amnesty International. "The countless victims of decades of grave violations of human rights by the previous Iraqi government deserve nothing less."

The Iraqi Governing Council announced on 10 December the establishment of the Iraq Special Tribunal which is expected to try Saddam Hussein and others. According to the tribunal's statute, judges and prosecutors are to be Iraqis but "the Governing Council can appoint non-Iraqi judges who have experience in the crimes encompassed in [its] statute."

Amnesty International urges that the option of including non-Iraqi expertise in the tribunal is fully explored. While Iraq has a strong legal tradition, there have not been prosecutions for complex crimes such as war crimes and crimes against humanity. While it would be important that such trials take place in Iraq, it is not clear that the independence and impartiality of prosecutors and judges can be guaranteed in a highly politicized context.

This tribunal was set up without widespread consultations with Iraqi civil society or input from international legal experts with experience of similar situations. However, this can still be redressed.

"The Coalition Provisional Authority and the Iraqi Governing Council should call on United Nations (UN) experts who can draw from similar experiences in other countries to ensure that the best make up of the tribunal is chosen," Amnesty International said. "Anything less would do a great disservice to the cause of justice not just in Iraq but across the world."

It is also a grave concern for Amnesty International that the death penalty has not been ruled out as a punishment by the special tribunal. The trial of Saddam Hussein and others should not be seen as a process of revenge. The Coalition Provisional Authority has suspended the death penalty and Amnesty International looks forward to its permanent abolition.

"It is a great disappointment to see representatives of the Occupying Powers now supporting or professing neutrality on the issue of the death penalty in Iraq rather than encouraging the permanent end of this obsolete and inhuman punishment."

As former head of Iraq's armed forces, Saddam Hussein is a prisoner of war and must be treated accordingly, including promptly being given access to delegates of the International Committee of the Red Cross. Like any other criminal suspect, Saddam Hussein is entitled to all relevant safeguards under international law, including the right not to be subjected to torture or ill-treatment and to receive a fair trial.

Amnesty International is concerned that aspects of Saddam Hussein's medical examination were shown on television. The Third Geneva Convention regulating the treatment of prisoners of war requires that prisoners be treated humanely at all times, including by protecting them against "public curiosity".

"While there may be a need to prove that Saddam Hussein is alive and in custody, showing him undergoing an examination of his mouth and hair was unnecessary and raises questions about the intention of distributing such footage," said Amnesty International.

Amnesty International has documented and acted upon gross human rights violations in Iraq throughout the rule of Saddam Hussein. It has long called for an end to impunity for such violations. In 1988, Amnesty International for the first time urged the UN Security Council to intervene in Iraq to stop the massive human rights violations being perpetrated against the Kurds. The truth must be disclosed and the victims and their families must receive reparations.

"The standards that should be used in the detention, interrogation and trial should be based on exactly the same principles that Saddam Hussein and others are accused of having denied the Iraqi people: these are the principles of international law," said Amnesty International.

### **Background:**

Together with other human rights organizations, Amnesty International has called for international and Iraqi experts to develop options for ensuring a fair trial for those accused of crimes of the scale and nature of those committed under the rule of Saddam Hussein. The UN has considerable expertise in this area. Amnesty International had also called for broad consultations within Iraqi society on the overall approach to accountability for past crimes before a final decision is taken on the specific option for bringing accused to justice. *See Ensuring Justice and Accountability for Human Rights Abuses*  
<http://web.amnesty.org/library/Index/ENGMDE140882003?open&of=ENG-IRQ>

Fundamental principles of fair trial include the presumption of innocence. Any tribunal must be competent, impartial and independent, and pursue suspects solely on the basis of the evidence against them and through a fair process. There should be no statute of limitations and no amnesties, pardons or similar measures for crimes under international law if such measures would prevent a conclusive verdict and full reparations for victims. Suspects should be brought to justice in proceedings that fully respect international law and standards for fair trial at all stages of the proceedings. There should be the right to appeal and no recourse to the death penalty or other forms of cruel, inhuman or degrading punishment. Victims and their families must have effective means to obtain full reparation for the violations they have suffered.

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