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Iraq: Death sentences highlight concerns over taped televised ‘confessions’

The sentencing to death today of 15 alleged members of an armed group days after “confessions” by several of them were broadcast on Iraqi TV highlights concerns that the use of such videotaped statements seriously undermines the right to a fair trial, said Amnesty International.

The sentences were pronounced by the Central Criminal Court of Iraq, which reportedly reached its verdict in less than a week, the trial having begun, it seems, on 10 June. According to Amnesty International’s information, at least some – possibly all – of the relatives of those convicted were not aware of the trial until the sentences were announced by the media on 16 June. Amnesty International opposes the death penalty in all cases.

“Confessions” by Firas Hassan Fleih al-Juburi and Hikmat Fadhil Ibrahim al-Juburi stating that they and others had committed brutal crimes – including the murder of dozens of people and the rape of women and girls, including the bride, at a wedding party – were broadcast on Iraqi TV channels al-‘Iraqiya and al-Ifaq on 28 May. The incident reportedly took place in a village near al-Taji, north of Baghdad, in June 2006, at the height of the sectarian violence, and has been dubbed by Iraqi media as the “al-Taji Wedding Massacre”. The “confession” of another defendant in the case, Ibrahim Najim ‘Abboud Shihab al-Juburi, was broadcast in early June.

Amnesty International has repeatedly condemned human rights abuses - including war crimes or crimes against humanity - by armed groups in Iraq, including kidnapping, torture and killing of civilians, and continues to call for those responsible to be brought to justice. However, those accused of these crimes must be treated in accordance with international human rights law and must receive trials that satisfy international fair trial standards. The use of televised “confessions” grievously undermines defendants’ right to a fair trial, even if such “confessions” were freely given.

The use of televised “confessions” is particularly disturbing in cases like this one where defendants are facing charges which could lead to their being sentenced to death and executed. Over the years many defendants have been sentenced to death in Iraq on the basis of “confessions” which they made in pre-trial detention, when they were typically held incommunicado and had little or no access to lawyers, and which they retracted in court on the grounds that they were obtained under torture. Some have been executed after being convicted on the basis of such “confessions”, which were accepted as evidence by the courts without any or adequate investigation, although it is well established that torture and other ill-treatment of detainees remains rife in Iraq.

Amnesty International is concerned that those who “confessed” on TV to their responsibility for the al-Taji Wedding Massacre and other crimes did not receive a fair trial. These concerns are heightened by public statements made by Iraqi government officials and others calling for their public execution. For example, the Chairman of the Supreme Judicial Council is reported to have said during a press conference on 14 June 2011 that those detained in connection with the al-Taji Wedding Massacre “will be executed as soon as their death sentences are ratified by the Presidency.” Such a statement by a very senior judicial official before the court reached

its verdict undoubtedly jeopardizes their right to a fair trial and violates the presumption of innocence, a fundamental principle in criminal law.

Amnesty International is further concerned that those convicted in connection with the al-Taji Wedding Massacre and other crimes were reportedly detained for several weeks in incommunicado detention, that is without access to their legal representatives or relatives. Incommunicado detention increases the risk of detainees being tortured or otherwise ill-treated, including the risk of being coerced into making confessions.

Barring relatives from having any contact with suspects in pre-trial detention and failing to even inform them about the opening of the trial also raises other serious concerns in that it has prevented them consulting with the defendants on the appointment of legal representatives of their own choosing, a right guaranteed under international standards for fair trial.

In mid-2005 Iraqi authorities declared an end to the broadcasting of televised “confessions”, following criticism by the UN, the Iraqi Bar Association and other national organizations, as well as Amnesty International. However, in early 2009 the Iraqi authorities resumed this abusive practice. Amnesty International urges the Iraqi authorities to end immediately their practice of broadcasting “confessions” and other incriminating testimonies obtained from individuals who are yet to stand trial. Such practice constitutes a gross breach of detainees’ right to a fair trial and of Iraq’s obligations under international human rights law. Article 14 (2) of the International Covenant on Civil and Political Rights, to which Iraq has been a state party since 1971, states that “Everyone charged with a criminal offence has the right to be presumed innocent until proven guilty according to the law.”