

PUBLIC

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Further Information on UA 160/07 (MDE 14/032/2007, 25 June 2007) and follow-ups (MDE 14/040/2007, 05 September 2007; MDE 14/045/2007, 16 October 2007; MDE 14/049/2007, 05 December 2007) - Death penalty/fear of imminent execution

IRAQ/USA

**'Ali Hassan al-Majid (m)
Sultan Hashim Ahmad al-Ta'i (m)
Hussain Rashid al-Tikriti (m)**

'Ali Hassan al-Majid, one of three former senior officials in Saddam Hussein's government currently in US military custody in Iraq, is in imminent danger of execution. The death sentence imposed on him in June 2007 was approved by Iraq's Presidential Council on 27 February. Once approved, such death sentences are to be carried out within 30 days.

Two other former senior members of Saddam Hussein's administration, Sultan Hashim Ahmad al-Ta'i and Hussain Rashid al-Tikriti, were sentenced to death at the same time as 'Ali Hassan al-Majid, but as yet their death sentences have not been approved by the Presidential Council. The three men were convicted by the Supreme Iraqi Criminal Tribunal (SICT) on charges of genocide, war crimes and crimes against humanity arising out of their involvement in the so-called Anfal campaign in 1988 which caused the deaths of some 180,000 Iraqi Kurds.

All three men are believed currently to be in US military custody and the US authorities have stated that they will retain custody of them until they receive an "authoritative government of Iraq request" to hand them over. According to a top Iraqi official, the Iraqi government have asked for 'Ali Hassan al-Majid to be transferred to their custody but it appears that US officials have so far declined to do this until "the government of Iraq has arrived at a consensus as to the legal process that must be followed with regard to these executions, and then follows that process".

The Iraqi Presidential Council and the Prime Minister had disagreed over whether the three executions should proceed, due to differences of opinion concerning the application of the constitution in such cases.

The Appeals Chamber of the SICT had upheld the men's death sentences on 4 September 2007 and they had been due to be executed within 30 days of that ruling.

BACKGROUND INFORMATION

Since the reintroduction of the death penalty in Iraq in August 2004, scores of people have been sentenced to death and there has been a rapid rise in the number of executions. At least 65 people were put to death in 2006 alone, many of them after unfair trials. In 2007 at least 199 people were sentenced to death and 33 were executed.

Under Iraqi law those sentenced to death can seek pardon from the President. However, those sentenced to death by the SICT cannot do so. The SICT was established to bring to justice former officials suspected of war crimes, crimes against humanity and genocide. Proceedings before the SICT are invariably unfair, with reported interference from Iraqi politicians. In a previous trial, lawyers have not been allowed to cross-examine prosecution witnesses, many of whom gave evidence without revealing their true identity for fear of reprisals from insurgents.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

TO THE IRAQI AUTHORITIES:

- expressing concern that 'Ali Hassan al-Majid is facing imminent execution if returned to Iraqi custody;
 - calling on the authorities to commute immediately the death sentences against 'Ali Hassan al-Majid, Sultan Hashim Ahmad al-Ta'i and Hussain Rashid al-Tikriti;
 - recognizing the right of governments to bring to justice those responsible for grave crimes such as those committed during the Anfal campaign but insisting that the death penalty is a violation of the right to life and the ultimate form of cruel, inhuman and degrading punishment;
 - calling on the authorities to commute all death sentences, including those handed down to these men, and take steps to abolish the death penalty completely;
- urging them to ensure that all trials before the SICT are fair, and that the court will no longer have recourse to the death penalty.

TO THE US AUTHORITIES:

- calling on them not to hand over 'Ali Hassan al-Majid, Sultan Hashim Ahmad al-Ta'i and Hussain Rashid al-Tikriti to the Iraqi authorities as this would put them in imminent danger of execution;
- asking them to ensure that the US authorities in Iraq do not hand over any others in their custody who have been or may be sentenced to death;
- pointing out that doing so would be in violation of international human rights law including the UN Convention against Torture and the International Covenant on Civil and Political Rights.

APPEALS TO:

Iraqi authorities If no email address is given, or your email bounces, please send appeals via the Iraqi embassy or diplomatic representative in your country, asking them to forward your appeals to:

President

Jalal Talabani

Salutation: Your Excellency

Prime Minister

Nuri Kamil al-Maliki

Salutation: Your Excellency

Minister of Human Rights

Wijdan Mikhail Salim

Fax: +9641 538 2007

Email: Wj_mohr_min@yahoo.com

Salutation: Your Excellency

Minister of Foreign Affairs

Hoshyar Zebari

Salutation: Your Excellency

US authorities

The Honorable Condoleezza Rice

Secretary of State, U.S. Department of State, 2201 C Street, N.W., Washington DC 20520, USA

Fax: +1 202 261 8577

Salutation: Dear Secretary of State

The Honorable Robert M. Gates

Secretary of Defense, 1000 Defense Pentagon, Washington DC 20301-1000, USA

Fax: +1 703 697 8339

Salutation: Dear Secretary of Defense

COPIES TO: diplomatic representatives of Iraq and the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.