

**Report and Recommendations
of an
Amnesty International
Mission
to
The Government of the Republic of Iraq
22 - 28 January 1983**

including the Government's response and Amnesty International comments



an amnesty international publication

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PREFACE

In 1982 Amnesty International asked the Government of Iraq to receive a delegation and to discuss with it the organization's concerns, which include allegations of torture, lack of basic legal safeguards in special courts and the use of the death penalty. The government agreed, and in January 1983, a delegation, consisting of the organization's Secretary General, an International Secretariat staff member and an interpreter, went to Iraq where they met members of the government and judiciary, as well as a number of members of various non-governmental organizations.

Beforehand Amnesty International indicated to the government the mission's main purpose and sent the Minister of Justice a list of the matters it wished its delegates to raise. They were:

- the conclusions and recommendations set forth in the organization's 1981 publication, Iraq: Evidence of Torture;
- the legal and administrative procedures and practices used in pre-trial detention cases, particularly in those referred to the Revolutionary Court or other special courts;
- the death penalty, especially the legislation and procedures whereby people can be sentenced to death.

Following the mission a memorandum was drafted on the basis of its findings and research done by the organization in recent years on its concerns in the country.

In May 1983 Amnesty International sent the memorandum to the government. The memorandum summarized the above-mentioned matters

of concern and urged the government to consider carrying out the recommendations contained in it.

On 28 June 1983 the government replied, saying, among other things, that Amnesty International's recommendations set forth in the memorandum "focus on legal procedures and ethical principles already applied in Iraq and suggest nothing fresh". This response does not diminish Amnesty International's concern about the matters described in the memorandum.

This publication is in two parts. The first consists of the memorandum; the second of the government's reply and Amnesty International's comments on it.

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MEMORANDUM TO THE GOVERNMENT OF IRAQ

INTRODUCTION

In January 1983 an Amnesty International delegation, led by the organization's Secretary General Thomas Hammarberg and accompanied by an interpreter, visited the Republic of Iraq to discuss matters of concern with government officials there. The delegates were in Baghdad from 22 to 28 January.

Beforehand Amnesty International indicated to the government the subjects the delegates would want to raise. These included the conclusions and recommendations set forth in the organization's 1981 publication, Iraq: Evidence of Torture; the legal and administrative procedures and practices used in pre-trial detention cases, particularly in those referred to the Revolutionary Court or other special courts; and the death penalty, especially the legislation and procedures whereby people can be sentenced to death.

The delegates met various Iraqi officials, including Minister of the Interior Saadun Shakir, Minister of Justice Dr Mundhir Ibrahim Al Shawi, Minister of Labour and Social Affairs Bakr Mahmud Rasul, Attorney General Abderrazak Mubarak and President of the Revolutionary Court Hadi Muslim Insaif. They discussed a number of matters of concern to the organization. When the officials did not have the necessary facts about some matter they promised, in some cases (but not invariably) to make inquiries and to pass on relevant information to Amnesty International.

When the delegates returned to the International Secretariat, Amnesty International summarized these matters requiring answers in letters to the appropriate authorities, including the Ministers of the Interior, Justice, Labour and Social Affairs and the President

of the Revolutionary Court, and requested the required information by the end of March. As of the end of April there has been no reply from the government.

The delegation met representatives of several non-governmental organizations also, including the Iraqi Human Rights Society, the Iraqi Bar Association, the Union of Arab Jurists and the Permanent Committee for the Defence of Human Rights and Fundamental Freedoms in the Arab Homeland.

This memorandum is an account of Amnesty International's findings, plus its conclusions and recommendations following the mission. The organization notes that, despite the war with Iran, no state of emergency has been declared in Iraq and there has been no derogation from the International Covenant on Civil and Political Rights, to which Iraq is a party. The Covenant's provisions, therefore, apply in their entirety to the whole of Iraq.

I. TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Amnesty International's concern about the use of torture

For many years Amnesty International has received persistent reports of the torture of political prisoners in Iraq, including reports of some victims having died as a result. In 1981, the organization published medical findings supporting other evidence that torture was systematic and widespread in Iraq.

The findings, published on 29 April 1981 in Iraq: Evidence of Torture, were the result of interviews with and medical examinations of 15 Iraqi exiles who said that while in the custody of the security forces in Iraq between September 1976 and August 1979 they were questioned under torture about their own and others' views

and in some cases pressed to join the Ba'ath Party.

Beating, burning, sexual abuse and the infliction of electric shocks were among the tortures described in the case histories of the 15 Iraqis, all of whom were examined by a team of Amnesty International doctors. In every case the latter found that the symptoms and signs observed during the physical examination were consistent with the tortures described. Moreover, the victims' accounts were mutually consistent, even though they had been arrested independently and at different times and places.

Most of the 15 torture victims were arrested by plainclothes security officers, sometimes accompanied by police officers. No arrest warrant was ever produced and in only one case did the arresting officer identify himself. In almost every case the accused was not told the reason for arrest at the time. Interrogation - by members of the security forces - invariably started on the first or second day of detention. Only four people said they had been brought before a judge or magistrate at some stage while in detention. Two of the 15 were tried; only two of the others were told what they were accused of and neither of them was allowed access to a lawyer while in detention. Contact with families was denied in most cases, and, despite persistent inquiries, relatives were often unable to get confirmation of the arrest or discover the detainee's whereabouts.

Torture is forbidden in Iraq by both domestic and international law. In 1971 Iraq ratified the International Covenant on Civil and Political Rights which prohibits torture. In September 1979 the Government of Iraq stated officially that it intended to comply with the United Nations Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Punishment, adopted by the UN General Assembly in 1975. The Government of Iraq's statement added that it intended to "continue the implementation, through

its national legislation and other effective measures, of the provisions of the said Declaration."

However, according to Amnesty International's current information (including the descriptions given by the 15 Iraqi exiles referred to in its earlier report), the arrest and detention procedures for political suspects, as laid down in the Code of Criminal Procedure, are not followed. Evidently the machinery for protecting people from torture is inadequate and the legal prohibition on torture in Iraq's constitution and other legislation disregarded.

In Iraq: Evidence of Torture Amnesty International urged the President to issue and "make widely and forcefully known" a policy statement that the government "condemns and will not permit torture in Iraq", and appealed for nobody to be arrested except on a warrant from the appropriate authorities and according to well defined judicial procedures. The government was urged to see that prisoners were not kept incommunicado as this, in Amnesty International's experience, is conducive to torture and ill-treatment. Amnesty International also recommended that the government instruct prosecuting authorities not to submit as evidence in court confessions or other statements extracted under torture.

Since publishing this report Amnesty International has continued to receive further allegations of torture in Iraq, including reports of deaths under torture. It has collected the names of and particulars about 30 people said to have died under torture while in custody between July 1979 and March 1981.

Iraqi officials' response to Amnesty International's concern about the use of torture.

Responding on 27 April 1981 to Iraq: Evidence of Torture (having

received a pre-publication copy) the Government of Iraq described the report as "without foundation" and stressed that torture was banned by Iraq's constitution and other legislation. The government cited a number of laws that forbid torture in Iraq but did not deal in detail with the actual allegations made in the report; nor did it respond to the report's recommendations.

In their meetings with the Iraqi authorities in January 1983, particularly their discussions with the Minister of the Interior and the Deputy Minister of the Interior, the Amnesty International delegates were assured by the officials that "the government is concerned with torture and fights it". They claimed that cases of torture, which they admitted happened occasionally, were investigated and the perpetrators severely dealt with. The Deputy Minister of the Interior stated that nobody could be arrested except on a warrant issued by the court, and that detainees could contact their families as soon as they were arrested. Regular visits by relatives were said to be allowed every 15 days, prisoners to receive medical examinations within 24 hours of arrest and regular prison visits to be made by independent officials.

Conclusions

Although torture is forbidden in Iraq by both domestic and international legislation Amnesty International believes that it still happens and is widespread.

Amnesty International believes that when the only form of prohibition is a legal provision this is insufficient to eradicate torture. The Human Rights Committee, set up under the International Covenant on Civil and Political Rights, is of the same opinion. In its "general comments", adopted on 27 July 1982, the Committee noted:

"that it is not sufficient for the implementation of article 7 of the Covenant to prohibit such treatment or

punishment or to make it a crime. Most States have penal provisions which are applicable to cases of torture or similar practices. Because such cases nevertheless occur, it follows from article 7 read together with article 2 of the Covenant, that States must ensure an effective protection through some machinery of control. Complaints about ill-treatment must be investigated effectively by competent authorities. Those found guilty must be held responsible, and the alleged victims must themselves have effective remedies at their disposal, including the right to obtain compensation. Among the safeguards which may make control effective are provisions against detention incommunicado, granting, without prejudice to the investigation, persons such as doctors, lawyers and family members access to the detainees; provisions requiring that detainees should be held in places that are publicly recognized and that their names and places of detention should be entered in a central register available to persons concerned, such as relatives; provisions making confessions obtained through torture or other treatment contrary to article 7 inadmissible in court; and measures of training and instruction of law enforcement officials not to apply such treatment."

Despite Iraqi officials' assurances that the government does not permit torture, Amnesty International is disquieted by the marked inconsistency between these assertions and the torture testimonies it still receives. These include allegations of incommunicado detention, which is contrary to internationally acceptable standards of treatment. The consistency and gravity of these allegations warrant a more serious response than flat denial; a thorough investigation into security force practice in this respect is called for and the results of such an investigation

should be made public. Although the delegates were told that complaints of torture and ill-treatment were investigated and that officials found guilty of assault had been punished, Amnesty International is still worried because there is no convincing evidence that the treatment of those in custody is properly and independently supervised.

In Amnesty International's opinion one of the most effective ways of eradicating torture would be for the highest authorities in the land to make it quite clear, both publicly and by direct instructions to law enforcement officials, that torture will not be tolerated under any circumstances. There must be no doubt about this on the part of officials responsible for arrest and interrogation as they may be under considerable pressure to extract information or confessions. The Minister of the Interior gave the delegates a copy of a statement by the President of the Republic entitled "Directives of the Combatant Comrade Saddam Hussein to the security services". The delegates were told that the statement was used in the training of police and security personnel and that it was on display inside all police stations and security services' offices.

Amnesty International has studied the statement and is concerned because it does not explicitly and absolutely prohibit torture and because, while going into considerable detail about the principles that should determine the security services' conduct it does nevertheless imply that different standards may apply to different cases. According to one clause: "Your conduct must be based throughout on a respect for individual freedom, so long as the individual himself/herself shall respect the right of the Revolution to pursue policies which serve its fundamental principles, and so long as individual freedom does not conflict with the policies of the Revolution." In another clause the security services are told that their guiding principle must be "that he/she who does not offend

the Revolution or society shall have their security and freedom challenged by no one."

This statement does not seem to be consistent with Article 3 or Article 5 of the UN Declaration on the Protection of All Persons from Being Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, which Iraq undertook to comply with in a letter to the United Nations dated 3 September 1979.

Article 3 of the Declaration states:

"No state may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment."

Article 5 of the Declaration states:

"The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons."

Recommendations

Amnesty International recommends that the texts of the UN Declaration

on the Protection of All Persons from Being Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment and the UN Code of Conduct for Law Enforcement Officials be supplied to all members of the police and security services involved in the custody or treatment of detainees. Amnesty International further recommends that these texts be accompanied by a personal statement by the President of the Republic drawing attention to the prohibition on torture or other cruel, inhuman or degrading treatment or punishment under all circumstances.

Amnesty International recommends also that immediate consideration be given to the recommendations made in Iraq: Evidence of Torture including the advice that:

1. the President of Iraq issue and make widely and forcefully known a policy statement that the government condemns and will not permit torture in the State of Iraq. This would be in agreement with Article 22(a) of the Iraqi constitution, and with Article 127 of the Code of Criminal Procedure (1971).
2. the government have translated into Arabic and circulated widely among police, security and military personnel in charge of prisoners the texts of:
 - (i) the UN General Assembly Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
 - (ii) the Code of Conduct for Law Enforcement Officials (adopted by the UN General Assembly on 17 December 1979).
3. no person be arrested except on a warrant from the appropriate authorities under law and according to strictly

determined judicial procedures. This would be in agreement with Article 92 of the Code of Criminal Procedure (1971) and with Article 9(1) of the International Covenant on Civil and Political Rights.

4. the government take effective measures to ensure that prisoners are not held in incommunicado detention, so as to avoid facilitating their ill-treatment, and specifically that:
 - (i) all detainees should have regular access to a lawyer and their family as soon as possible after arrest, and certainly before interrogation begins;
 - (ii) all detainees should be brought before a court of law within 24 hours of arrest. This would fulfil Article 123 of the Code of Criminal Procedure which states that "the examining magistrate or investigator must question the accused within 24 hours from the time of his arrival, after being satisfied of his identity and advising him of the charge against him";
 - (iii) all detainees should have access to a doctor immediately upon arrest, at regular intervals afterwards, and before release from detention, and should be provided with appropriate medical treatment at all times. The doctors' examinations should be fully documented and should be available to the authorities responsible for the custody of prisoners and those responsible for investigating allegations of torture. This would fulfil Article 6 of the Code of Conduct for Law Enforcement Officials.

5. the Government of Iraq instruct all prosecution authorities not to submit in evidence before any court confessions or other statements which have been obtained as a result of torture. This would fulfil Article 12 of the UN General Assembly Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which prohibits the admissibility in evidence of statements extracted by torture.
6. the government take effective measures to implement Articles 8, 9, 10 and 11 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 8 states:

"Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the State concerned."

Article 9 states:

"Wherever there is reasonable ground to believe that an act of torture as defined in Article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint."

Article 10 states:

"If an investigation under Article 8 or Article 9 establishes that an act of torture as defined in Article 1 appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings."

Article 11 states:

"Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law."

II. SPECIAL COURTS

Amnesty International's concern about the lack of basic legal safeguards in special courts

For many years Amnesty International has received information suggesting that most political prisoners in Iraq are not tried by ordinary criminal courts but by permanent or temporary special courts, and that most death sentences are passed by these courts. These courts consist of the permanent special courts -- the Revolutionary Court in Baghdad and the Special Military Court in Kirkuk -- and temporary special courts set up on an ad hoc basis

by decision of the Revolutionary Command Council to try particular groups of political prisoners.

Amnesty International is concerned because the procedures in these special courts (about which it has received information) do not provide the legal safeguards guaranteed by Iraqi domestic law and by the International Covenant on Civil and Political Rights:

a) Permanent Special Courts

The Revolutionary Court in Baghdad is a permanent special court, set up on 9 December 1968 under law No. 180 of 1968 as amended by laws Nos. 1, 85 and 120 of 1969. According to law No. 85 its bench may be either civilian or military or a combination of the two. This court may try crimes against internal or external security, bribery, embezzlement, robbery and drug offences.

The Special Military Court of Kirkuk, a permanent special court, was evidently created in 1974 by a secret resolution of the Revolutionary Command Council. It sits in a military base in Kirkuk and tries Kurds arrested in the Kurdish region charged with political offences. Trials are held in camera, no defence counsel is permitted and no appeal is possible.

b) Temporary Special Courts

A temporary special court was established on 23 February 1977 to try 110 people arrested after anti-government riots by the Shi'i community in Kerbala and Najaf.

Amnesty International does not know what the legal basis of this court was. It consisted entirely of members of the Revolutionary Command Council. On 25 February 1977 it was officially reported that the court had unanimously decided to sentence eight people to death and 15 to life imprisonment, and to acquit 87. It was unofficially reported that it had sat for only three or four hours. The trial was held in camera. No defence counsel was allowed and there was no chance of appealing. The bodies of those sentenced to death and executed were not returned to the families, as is customary.

Another temporary special court was created on 28 July 1979 under Revolutionary Command Council resolution No. 969 of 1979 to try 68 Ba'ath Party members accused of treason and "conspiring against the Party and the Revolution". The court consisted entirely of members of the Revolutionary Command Council. After a six-day trial 22 people were sentenced to death and 33 to from one to 15 years' imprisonment; 13 were acquitted. The trial was held in camera. No defence counsel was permitted and there was no chance of appealing. Executions were reportedly carried out the day after the trial ended.

Iraqi officials' response to Amnesty International's concern about the existence and procedures of special courts

The delegates discussed the existence and the procedures of special courts with the Minister of Justice, the Attorney General, the President of the Revolutionary Court and members of the Bar Association, mentioning information Amnesty International had received about the permanent and temporary special courts.

The Minister of Justice and the Attorney General assured the

delegates that the only special court at present in existence was the Revolutionary Court in Baghdad. The Special Military Court of Kirkuk had been abolished one or two years ago, they said, and there were now no ad hoc special courts. Amnesty International requested copies of the texts of the legal provisions under which the Special Military Court of Kirkuk had been established and later abolished. As of the end of April it has not received these documents.

The Minister of Justice and the President of the Revolutionary Court told the delegates that the Revolutionary Court's procedures were the same as those of ordinary criminal courts. The delegation was referred to Article 3 of law No. 1 of 1969 according to which: "Proceedings of the Revolutionary Court shall be conducted in accordance with the Code of Criminal Procedure". Iraqi officials stated that defendants could always see a defence lawyer immediately after arrest and the President of the Revolutionary Court said that 90 per cent of the cases tried by the Revolutionary Court were heard in public.

Conclusions

Amnesty International has learned that the way the Revolutionary Court functions is quite different from the way ordinary criminal courts function and that in certain respects this amounts to a breach of domestic and international law.

a) Independence of the court

According to law No. 85 of 1969 the Revolutionary Court bench may be either civilian or military or a combination of the two. The delegates were told that the present court consists of a civilian President and two members of the armed forces - a Colonel and a Lieutenant-Colonel. This court's judges are not

recruited in the same way as senior judges normally would be. The President of the court admitted that he had had no judicial experience before he was appointed to his present post. He told the delegation that this court's judges are always Ba'ath Party members and that, unlike ordinary courts, the Revolutionary Court interprets the law according to Ba'ath Party principles. Furthermore, while ordinary courts are supervised by the Ministry of Justice, the Revolutionary Court is linked directly to the office of the President of the Republic. This suggests that possibly the court may not meet the requirements of Article 14(1) of the International Covenant on Civil and Political Rights which states: "In the determination of any criminal charge against him, or of his rights and obligations in a suit of law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

b) Right of defence

The President of the Revolutionary Court assured the delegation that a defendant can always see a defence lawyer immediately after arrest. Amnesty International has, however, received numerous reports of cases referred to the Revolutionary Court in which the defendant was allowed access to a defence lawyer only after the investigative stage had ended; sometimes not until the actual day of the trial. The defence lawyer was often restricted merely to presenting pleas for clemency or reduction of sentence -- which contravenes Article 14(3)(b) of the International Covenant on Civil and Political Rights according to which anyone charged with a criminal offence is entitled "to have adequate time and facilities

for the preparation of his defence and to communicate with counsel of his own choosing."

c) Right of appeal

The delegation was told by both the Minister of Justice and the President of the Revolutionary Court that there is no right of appeal to a higher judicial body from verdicts reached by the Revolutionary Court -- not even in death penalty cases. The delegation was told also that defendants sentenced by the Revolutionary Court could appeal for clemency only to the Department for National Safety, which is part of the Office of the President. This absence of the right to judicial appeal contravenes Article 14(5) of the International Covenant on Civil and Political Rights, according to which: "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

d) Public access to the judgment

The Minister of Justice told the delegates that although the major judgments of ordinary criminal courts are contained in an annual volume published by the Ministry, Revolutionary Court verdicts are not included in it. All the court's judgments, the President of the Revolutionary Court said, can be obtained on request, including those that have been made after proceedings in camera. However, as of the end of April Amnesty International has not received the copies of the seven judgments it requested. The lack of public access to Revolutionary Court judgments is difficult to reconcile with Article 14(1) of the International Covenant on Civil and Political Rights, which

states: "any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children."

However when the delegates asked the Minister of Justice and the President of the Revolutionary Court when the Revolutionary Court would be abolished, the Minister of Justice stated that the court was needed in a "revolutionary transformation situation" and that it was up to the political leaders to decide whether it should be abolished. The President of the Revolutionary Court stated that as soon as conditions in the country had improved -- once people felt less inclined to commit such crimes as bribery and embezzlement -- the court might be abolished. He added that the number of cases dealt with by it was decreasing.

Recommendations

Amnesty International believes that the procedures of the Revolutionary Court, and of other special courts that existed recently in Iraq, are incompatible with Iraq's international obligations under the International Covenant on Civil and Political Rights. Amnesty International therefore recommends that urgent consideration be given to the abolition of the Revolutionary Court, and that the use of such special courts be abandoned.

Amnesty International would refer to one of the recommendations adopted by the Symposium on Human Rights and Fundamental Freedoms in the Arab Homeland held in Baghdad from 18 to 20 May 1979 and subsequently circulated by the Government of Iraq at the 34th session of the UN Economic and Social Council (UN doc.A/C.3/34/11). According to recommendation 10 paragraph 2 of the Symposium, exceptional legislation and courts, in particular states of emergency, constitute a threat to human rights and fundamental freedoms

in the Arab Homeland. The Symposium called on the Arab states to abolish "the exceptional courts under whatever names, and to depend on the normal process of law and guarantee its independence."

III. THE DEATH PENALTY

Amnesty International's concern about the use of the death penalty

Amnesty International is concerned because Iraq still provides the death penalty for a wide range of criminal and political offences and because hundreds of people are executed every year, mostly for political offences.

As well as being provided for ordinary criminal offences, including murder, armed robbery, arson and rape, the death penalty may be imposed for a wide range of crimes against the internal and external security of the state, including several sorts of non-violent political activity. For example:

a) Political activities by and relating to members of the Ba'ath Party

"Any member of the Arab Socialist Ba'ath Party who wilfully keeps secret his previous party and political membership and links.

"Any member or whoever shall be a member of the Arab Socialist Ba'ath Party, if it can be proved that he had links, during his commitment to the Ba'ath Party, with any other party or political grouping, or worked for it or in its interest."

(amendments to Article 200 of the Iraqi Penal Code as adopted in 1974)

"Whoever has been a member or shall be a member of the Arab Socialist Ba'ath Party and whose relationship with the party has ended, if it can be proved that he has a connection with any other party or political grouping or that he works for it or in its interest."

(amendment to Article 200 of the Iraqi Penal Code as adopted in 1976)

"Whoever recruits to any party or political grouping a person who has, or had, organizational relations with the Arab Socialist Ba'ath Party, while knowing of that relation."

(amendment to Article 200 of the Iraqi Penal Code as adopted in 1978)

b) Political activity within the armed forces detrimental to the Ba'ath Party

"Any activity or political organization within the ranks of the Iraqi armed forces which is detrimental to the Ba'ath Party shall be prevented.

"All military personnel participating in a prohibited political organization or carrying out prohibited political activity with the purpose of recruiting or spreading principles or trends detrimental to the above mentioned party shall be punished according to the law."

(Revolutionary Command Council resolution No. 1357 of 10 November 1971; this became a capital offence in 1976).

c) Any political activity by former members of the armed forces other than Ba'ath Party activity

"Any member of the armed forces (including police and the security forces) who has retired, or any volunteer serviceman who has been released from the service, or whose service has been terminated for any reason after 17 July 1968, if it is proved that he has worked for, or in the interest of, any party or political group other than the Ba'ath Party."

(Revolutionary Command Council resolution No. 884 of 17 July 1978)

Apparently anyone who has completed compulsory military service is liable to be sentenced to death for engaging in any political activity other than that of the Ba'ath Party. The above-cited legal provisions are contrary to Articles 19 and 20 of the Universal Declaration of Human Rights: they not only make the peaceful exercise of the right to freedom of expression and association a criminal offence, they even prescribe the death penalty.

Although Article 22 paragraph 1 of the Iraqi Penal Code states that death sentences passed for political offences are to be commuted to life imprisonment, Amnesty International has collected the names of and particulars about 520 people reportedly executed for political offences between 1978 and 1981. It has noted the increase in executions since 1980: 100 people were reported to have been executed between March and April 1980. Reports indicate that more than 300 executions took place during 1982. There is reason to believe that the actual figures are higher.

Amnesty International is very disquieted because most of those executed in Iraq during this period were sentenced to death by

permanent or ad hoc special courts, where trials are summary and often held in camera. These tribunals often consist of representatives of the executive including members of the armed forces. Defendants are held incommunicado pending trial; there are stringent restrictions on the right to defence in the Revolutionary Court and no right of defence at all in the other special courts. There is no right of appeal to a higher court, although the death sentence must be ratified by the President and a prisoner may petition the President for clemency. According to the Code of Criminal Procedure at least 30 days must elapse between passing of sentence and execution (Article 288), the prison must inform the relatives so that they can visit the victim the day before execution (Article 291) and the body must be returned to the family if they so desire (Article 292). Amnesty International knows of many instances in which these articles have been contravened.

Iraqi officials' response to Amnesty International's concern about the use of the death penalty

The Minister of Justice acknowledged that a death sentence passed by a special court could be carried out more quickly than one pronounced by an ordinary criminal court and said that, according to Article 57 of the constitution, all death sentences must be approved by the President of the Republic before being carried out. Presidential decrees ratifying death sentences are not, however, published.

The President of the Revolutionary Court refused to give even a rough indication of the number of death sentences passed annually by the Revolutionary Court. At the request of the delegates the Minister of Justice agreed to supply a list of those executed in 1982. However, as of the end of April Amnesty International has not received it.

Conclusions

The long list of criminal and political offences for which the death penalty is provided and the numerous executions carried out each year cannot be reconciled with Iraq's obligations under international law. According to Article 6(2) of the International Covenant on Civil and Political Rights "sentence of death may be imposed only for the most serious crimes". The Human Rights Committee set up under the International Covenant on Civil and Political Rights stated in its "general comments" adopted on 27 July 1982 that although parties to the Covenant "are not obliged to abolish the death penalty itself, they are obliged to limit its use and, in particular, to abolish it for other than the 'most serious crimes'". Furthermore, on 8 December 1977 Iraq joined in the consensus by which the UN General Assembly adopted resolution 32/61 on the death penalty. According to this resolution "the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment." Nevertheless Iraq has continued to create fresh capital offences. In at least one instance a new law dealing with capital offences has been allowed to apply retroactively.

Membership of, or affiliation to, a party called "Al Da'wa Al Islamiya"

"Anyone who is a member of, or is affiliated to 'Al Da'wa' party or who works to achieve its objective under another guise.

"This Resolution shall be executed against offences committed before its issuance which no decision have been issued to refer thereof to the competent court."

(Revolutionary Command Council resolution No. 461 of 31 March 1980)

This resolution contravenes Article 15(1) of the International Covenant on Civil and Political Rights which states:

"No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time it was committed."

Recommendations

Amnesty International opposes the death penalty in all countries and in all cases on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment. The organization is extremely concerned because in Iraq numerous executions have been carried out in recent years and because the number of crimes for which the death penalty is provided has been increasing.

Amnesty International therefore recommends that immediate steps be taken to abolish the death penalty in Iraq, starting with its abolition for all non-violent political offences for which it may at present be imposed.

IV. IRAQ'S INTERNATIONAL OBLIGATIONS

Iraq is a party to some of the main international instruments for the protection of human rights, including the International Covenant on Economic Social and Cultural Rights and the International Covenant on Civil and Political Rights.

On 3 September 1979 Iraq announced officially that it intended to comply with the UN Declaration on the Protection of All Persons

from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In its report, dated 5 June 1979, made in accordance with Article 40 of the International Covenant on Civil and Political Rights, Iraq stated that no state of emergency had been proclaimed in the country since the Covenant entered into force in 1976. The Minister of Justice told the Amnesty International delegation that no state of emergency at present applies anywhere in Iraq even though the country is at war with Iran. No derogation from the International Covenant on Civil and Political Rights has therefore been made and the Covenant's provisions in their entirety apply to the whole of Iraq. The Minister of Justice confirmed that the Covenant's provisions may be invoked in any court in the land.

Amnesty International notes that Iraq has not yet ratified the Optional Protocol to the International Covenant on Civil and Political Rights providing for the right of individual complaint. The organization recommends that its ratification be considered.

V. SUMMARY OF RECOMMENDATIONS

Amnesty International recommends:

- a) that the texts of the UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the UN Code of Conduct for Law Enforcement Officials be supplied to all members of the police and security services concerned with the custody and treatment of detainees; that these texts be accompanied by a personal statement by the President of the Republic drawing attention to the

prohibition on torture or other cruel, inhuman or degrading treatment or punishment under all circumstances;

- b) that further consideration be given to the recommendations made in the Amnesty International report Iraq: Evidence of Torture;
- c) that urgent consideration be given to the abolition of all special courts, including the Revolutionary Court;
- d) that immediate steps be taken to abolish the death penalty in Iraq, starting with its abolition for all non-violent political offences for which it may at present be imposed;
- e) that consideration be given to ratification of the Optional Protocol to the International Covenant on Civil and Political Rights.

The Iraqi Government's Reply
and
Amnesty International Comments

THE IRAQI GOVERNMENT'S REPLY*

INTRODUCTION

While stressing the high esteem in which Iraq holds all international organizations active in the sphere of human rights, and its appreciation of the serious concern Amnesty International displays, we would point out that in its present memorandum Amnesty International again raises numerous issues already fully dealt with and answered in our long and detailed reports as well as in talks between Iraqi officials and the organization's delegation during its last visit to Iraq.

We note furthermore that a number of the recommendations made in the memorandum are couched in unfamiliar terms not in keeping with the cooperative relationship which exists between the Iraqi authorities and the organization. Moreover, Amnesty International cites information it could have disclosed during its delegates' visit to Iraq, in order to gain further clarification, but did not do so.

In order to maintain our cooperative relationship with the organization we wish to clarify the following points made in this memorandum:

The memorandum contains a number of falsehoods, which misrepresent the reality of the situation and contradict proved facts. In this respect we would mention the following:

1. MEETINGS WITH OFFICIALS

The memorandum states that "The organization's delegation met a number of Iraqi officials including the Ministers of the Interior, Justice, and Labour; the Attorney-General; and President of the Revolutionary Court. It mentions that they did not have the necessary facts about

* The Iraqi Government's reply has been translated from the Arabic.

the matters discussed, and that they had promised to forward the relevant information by the end of March; however by the end of April no reply had been received."

This is not true, as the officials referred to supplied the delegation with all requested explanations and information when they met and the delegation did not object to any subject discussed. The Ministers had suggested that the delegates make "fact-finding" visits to the reform section of Abu Ghraib and other penitentiaries. This invitation was not taken up by the delegates.

Furthermore, the Presidency of the Revolutionary Court gave clear and detailed answers to the questions asked by the organization about the seven individuals.

Since the organization's Secretary General and his accompanying delegation displayed no desire to visit the reformatories, we would point out in our favour that the representative of the UN Committee for Crime Prevention and Criminal Justice (Dr Antoinette Fijica), who was invited to attend the first conference of the directors of Penal Institutions in the Arab Homeland held in Baghdad from 9-13 November 1981, visited the reform sections of Abu Ghraib and expressed her complete satisfaction with the regulations and procedures.

2. IRAQ AND HUMAN RIGHTS AGREEMENTS

Amnesty International's acknowledgement that Iraq did not declare a state of emergency despite the present war with Iran is unmistakable evidence of the extent of the Iraqi Government respect for civil and political rights, and thus of its commitment to abide by the provisions of the International Covenant on Civil and Political Rights.

The Iraqi Revolution was made in order to bring about human happiness, and a new and mature individual. Despite its great military and political superiority over the expansionist Iranian regime, Iraq, from the beginning of the conflict, has called for an end to the war

and continues to do so - a war of aggression against our nation. This is further evidence of the humanitarian nature of the Iraqi Revolution.

3. TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Amnesty International declares that "For many years [it has] received persistent reports of the torture of political prisoners in Iraq." As regards this we would remind you that the Iraqi people and the Revolutionary Government of Iraq utterly repudiate all types and methods of torture wherever they occur and at whatever level. This is in contrast to the situation in "Israel", and its practices with regard to the Palestinian Arab people, like those of the Iranian regime with regard to the Iranian people, as well as other states in Asia, Africa and Latin America.

In this connection the memorandum points out that:

A. "Torture was widespread". We believe that this statement is based on false allegations by people who fled from Iraq; or by foreigners posing as Iraqis. Otherwise why are the names of those said to have been tortured by the Iraqi authorities not mentioned? Which department tortured them? Who were those who died under torture? Who witnessed torture? These allegations have no basis in law and their main aim is to discredit the people of Iraq and its Revolutionary Government.

The memorandum refers to findings published on 29 April 1981 in Iraq: Evidence of Torture, which were "... the result of medical examinations of 15 Iraqi exiles who had been subjected to torture while in the custody of the security forces in Iraq between September 1976 and August 1979, and in some cases had been pressed to join the Arab Socialist Ba'ath Party."

As previously mentioned the Iraqi people and Revolutionary Government maintain democracy and denounce all forms of torture and coercion. If only your organization would cooperate with us by sending one of the

15 so that he can identify the person or institution which tortured him thus enabling us to take the appropriate legal steps against him or her, since Iraqi law prohibits such practices. Probably these 15 are not Iraqis at all. If they were how could they have left the country while wanted by the security forces? How were they authorized to leave? How were they exiled from Iraq seeing Iraqi law prohibits the banishment of Iraqis? How are they managing to live while abroad? and who is supporting them? It is certain that they are either fugitives from impending prosecution, or else non-Iraqis, who have settled in Iraq for various reasons, the main one being proximity to the numerous holy places in our country; yet their loyalty and spiritual and intellectual allegiance have remained to their country of origin. We used to have an Iranian community in Iraq most of whom formed a fifth column on behalf of the Iranian regime hostile to Iraq.

We would emphasize our readiness to receive any of these 15 people in order to conduct a proper investigation in the presence of whoever you send from your organization.

B. Detention procedures. The organization mentions in its memorandum that "the arrest and detention procedures for political suspects, as laid down in the Code of Criminal Procedures are not followed". We would point out that "No crime or punishment minus legal provision for it," is a basic principle of Iraqi law. No one may be detained without evidence of having committed a crime or felony, or without an arrest warrant issued by the judiciary or investigating magistrate. We are prepared to consider anything which contradicts this. Moreover, there are no political suspects or detainees in Iraq, since in Iraq there is a national front that is made up of political parties whose freedom of political action and freedom to recruit members was granted by the Revolution. Political parties allied to the national front are accorded all the rights and obligations of the leading party, the Arab Socialist Ba'ath Party. We believe that when you refer to "political detention" you mean the imprisonment of a number of party and political elements from the various parties, including the Ba'ath, who have committed ordinary non-political crimes

and have become liable to punishment by law in accordance with proper legal procedures. As for detainees being "denied any outside contact", this simply does not happen. A detainee is entitled to contact his relatives, appoint a defending lawyer and be seen by a doctor. Furthermore, "solitary confinement", and "concentration camps" do not exist in Iraq. Suspects are detained in official police stations. Inmates are allowed visits from relatives four times a month, and on all official and religious holidays. Other visits are permitted at the discretion of the director-general and are not supervised.

The officials who conduct the trial do not accept confessions as conclusive evidence, and it is possible to refer to the decisions reached by the various courts in Iraq, including the Revolutionary Court, where it emerges that personal confessions have been insufficient to achieve a conviction and defendants have consequently been released.

As regards confessions extracted under torture or cruel treatment, the memorandum does not describe any cases of this in detail, but just generalizes. The truth is that in addition to refusing to accept any such confessions, the judicial authorities require that legal proceedings be taken against the interrogator in question. The independence of the judiciary is based on this principle. We would welcome an example of one such incident if this is the practice in Iraq as is claimed.

C. Torture. The memorandum mentions that some 30 people are "said to have been killed under torture" while in custody between July 1979 and March 1981. This is based wholly on conjecture. The phrase "said to have been killed under torture" is not supported by any concrete evidence. It is no more than an unfounded allegation, with no objective legal value. Just who was killed under torture? Who killed him? What were the causes of death? How was the corpse taken to the next of kin, or neighbours, or relatives? What were their reactions? How is it that the next of kin remained silent?

The memorandum's insistence that torture still goes on in Iraq despite the explanations given by the Minister of the Interior and the

Deputy Minister of the Interior, indicates that the organization is acting on the basis of unsubstantiated information which it has unquestioningly assumed to be accurate. This is incompatible with the organization's aim to serve the cause of humanity by means of rigorous research and thorough examination of the accuracy of all information before publishing it.

4. SOLITARY CONFINEMENT

The memorandum mentions allegations of solitary confinement which is not in accordance with internationally accepted standards of treatment. First we would ask the following questions:

Where does this solitary confinement take place? Who are thus treated? ..., and at what stage of the investigation? What is its purpose?

We would also mention the various successive stages of legal procedure in Iraq: When the authorities learn that an individual has committed a crime, the court or investigating magistrate issues an order for the arrest of the said person. The authorities then proceed to gather evidence, on the basis of which the suspect is questioned and, if there are sufficient grounds, referred to an appropriate court. At this court the evidence is examined, and if found to be insufficient for a conviction the suspect is released. If, however, the evidence is sufficient for a conviction the suspect is sentenced according to the punishment prescribed by law in such a case. The convict is then sent to a reformatory. The defendant is allowed access to a lawyer and to relatives, is entitled to a medical examination by a doctor and receives half his/her salary while in detention. If the organization knows of any actual individuals in solitary confinement, we ourselves have no such information and will gladly do all we can to bring to light the name or names of any such person. Possibly the solitary confinement the organization refers to is that of detainees who have committed certain misdemeanours while in prison and are consequently put in solitary confinement by the prison director for a number of days. This is a disciplinary punishment and is completely lawful.

In regard to this we would point out that solitary confinement as an inmates' punishment is mentioned in Paragraph (H) of Article 43 of the Law of the General Institution of Social Reform, No. 104 (1981). It is regarded by the Iraqi law as a last resort applicable only when inmates have broken the rules and regulations prescribed by law and after offenders have been barred from the following activities as initial punishments:

- All sports and recreational activities
- Correspondence
- The purchase of authorized consumer goods available to inmates
- All visits

This punishment is inflicted in order to correct the conduct of particular inmates, and is used only after an administrative investigation by the section director and the social researcher, who thoroughly examine the circumstances of each offender in accordance with the principle of "judge each case on its merits." This penalty is unique in as much as the law empowers the general director to shorten or cancel it at his discretion if assured by the special technical committee or the social researcher that the offender has mended his ways. In any event, the period of punishment may not exceed three months. It has been proved that this penalty serves as a deterrent and does not conflict with principles of reform. In addition it lacks the brutality of the punishments of the past. As regards total life imprisonment, this punishment is not inflicted in Iraq. Instead, the penalty of life imprisonment is limited by law to a maximum of 20 years.

As for the statement in the memorandum that the special courts had sentenced 15 people to life imprisonment, the truth is that those 15 received clemency from the President and their order of release was issued in July 1978, which means that their period of imprisonment did not exceed one year.

5. SPECIAL COURTS

The memorandum states that the organization is concerned about the lack of basic legal safeguards in the special courts. Once more, we would

explain to the organization the following:

The special courts have nothing whatsoever to do with political crimes. Their realm is confined to internal or external security cases, bribery, embezzlement, robbery and drug offences. These crimes are internationally forbidden. The following information explains the courts' situation further:

A. The Revolutionary Court: This is a special court which may try internal or external security cases, bribery, embezzlement, robbery and drug offences. That is its sphere of jurisdiction, and all these crimes are punishable by law in every country of the world. Its verdicts are not subject to appeal, but remain under scrutiny throughout by the Committee of Public Security, which is composed mainly of judges with much experience in all aspects of Civil and Penal Law. Furthermore, citizens have the right to appeal directly to President Leader Saddam Hussain, the President of the Republic. The organization is free to examine the release orders following various individual applications for clemency that have been granted by the President as well as general amnesty orders issued from time to time. There are cases also in which sentences have been commuted by the same process. Court sessions are open to the public in 90 per cent of cases. The defendant's right of defence is held to be sacred; and all court verdicts can be obtained. In any case, the Revolutionary Court is an exceptional legal institution necessary at the present stage and situation of the Revolution. It deals with crimes which are ordinary but crucial as regards the radical transformation of society. Its bench consists of legal officials, both civilian and military, who are specialists in this field. This court will be abolished once we have gone past the stage of revolutionary transformation which necessitated its creation.

B. Temporary Special Courts:

1. The 23 February 1977 court was created to try 110 individuals arrested after anti-government riots in Kerbala and Najaf. It decided unanimously to sentence eight people to death and 15

to life imprisonment; and to acquit 87. This was decided on 25 February 1977, after several days and not three or four hours as stated in the memorandum. This type of court is needed to deal with the sectarian sedition which the enemies of the people wish to foment in order to destroy the nation's unity and upset its attempts to achieve progress and growth.

2. The 28 July 1979 court was created to try 68 members of the Socialist Arab Ba'ath Party for treason and conspiracy against the Party and the Revolution. After several days the court sentenced 22 people to death, and 33 to from one to 15 years' imprisonment; and acquitted 13 others. This is a totally constitutional court, established in accordance with Paragraph (H) of Article 38 of the Iraqi Constitution. It deals with membership of the Ba'ath Party, therefore all aspects of this case are an internal Party affair.

In both the above cases, justice was allowed to take its true course. How else would 87 people have been acquitted in the first case and 13 in the second? The Iraqi people are fully aware of these facts.

3. The special court at Kirkuk no longer exists. It was abolished by Order of the Revolutionary Command Council No. 1009 dated 5.8.1982 (a copy of this Order is herewith enclosed).

6. THE DEATH PENALTY

The memorandum states that, "The organization is concerned because Iraq still provides the death penalty for a wide range of criminal and political offences and because hundreds of people are executed every year, mostly for political offences." This is no more than general conjecture with no basis in reality. Who are these hundreds who have been executed? Which courts passed the death sentences? How were the

sentences carried out? and by which department? What is the position of the relatives of the executed vis-a-vis the Party and the Revolution? This comes at a time when genuine democracy in the Party and society is at its strongest and is quite unambiguous; and when the President commands the deepest love and respect of the people. The organization lists the following as crimes punishable by the death penalty:

- "Political activities by and relating to members of the Ba'ath Party", thus consequently, an internal matter to do with the Party's internal affairs and organization. The purpose of such a measure is the maintenance of the Party's ideological and organizational unity.

- "Political activity within the armed forces detrimental to the Ba'ath Party." Clearly, the main political function of every nation's armed forces is defence of their homeland against external and internal danger. This can be achieved only when they rigidly adhere to the principles and doctrines on which the state is based. We can think of no country in the world which allows the members of its armed forces to join unauthorized or illegal political organizations. As regards its implementation, the death sentence is carried out in accordance with prescribed laws and procedures. If there have been witnesses to departures from these laws and procedures, as you claim, we would welcome any information about such witnesses.

As for the statement that "... anyone who has completed compulsory military service is liable to be sentenced to death for engaging in any political activity other than that of the Ba'ath Party", this is quite untrue. When embarking on military service conscripts have to cease political activity for other parties only as regards recruiting, organizing and (political) training. Once discharged they may resume all political activity. The organization can confirm this by contacting the National Front and Progressive Nationalist Parties.

- As regards members of the Ba'ath Party who have had previous links with any other party or political group or have worked for or backed it; or those whose connections with the Party have ended and

have been proved to have links with other parties or have worked for or backed them; or those who have persuaded people connected with the Ba'ath Party to join other parties, while knowing of those connections: all this is to do with the internal organizational affairs of the Party. We do not therefore believe it should be subject of discussion with the organization. This would be considered interference in matters which are not the organization's business.

7. ARE THERE POLITICAL EXECUTIONS IN IRAQ?

The memorandum states "that it has collected the names of 520 people executed between 1978 and 1981 for political reasons. Between March and April 1980, 100 people were reported to have been executed; and reports indicate that more than 300 executions took place during 1982. There is reason to believe that the actual figures are higher." As regards this, we would assure the organization that there have been no executions in Iraq for political reasons. Furthermore, the figures quoted are exaggerated and inaccurate.

8. MEMBERSHIP OF OR AFFILIATION TO THE PARTY CALLED 'AL DA'WA AL ISLAMIYA'

We would point out that what is known as Al Da'wa Party is in fact a fifth column that strives to pave the way for the Iranian enemy to invade and occupy Iraq and annex its territory. There is conclusive evidence that it is in the pay and service of a foreign power and a traitor to the Homeland and the interests and aspirations of the Arab Nation. It attempts in every possible way to destroy the system of popular government and to wage war against the Revolution; and it does not conceal its collaboration with the Iranian regime. Moreover, it has committed crimes of murder, robbery and the sacking and destruction of public and private institutions. It is well known that the Revolutionary Command Council in 1979 issued a general amnesty for all detainees belonging to the Al Da'wa Party, whatever their sentences, including the death sentence.

COMMENTS ON THE MEMORANDUM'S RECOMMENDATIONS

Careful study of the recommendations outlined in the memorandum reveals that they focus on legal procedures and ethical principles already applied, and suggest nothing fresh. While acknowledging the organization's active concern about these matters, we would remind you that, in line with the principle of sovereignty, every state is entitled to form general policies and strategies concerning all aspects of its life in accordance with its legal obligations and legitimate interests. Similarly, it is free to adopt the social, economic and legal framework that will safeguard its independence, status and integrity. This is proclaimed in all international covenants and codes of conduct, which consider any breach of this principle to constitute unacceptable interference in internal affairs and a violation of national sovereignty.

The recommendations do no more than underline this. They are phrased, moreover, in such a way that they seem to be an instruction contrary to accepted forms of international communication, and to constitute a blatant departure from the principle of national sovereignty.

As regards the details surrounding these recommendations we would point out the following:

1. It is unusual for a head of state to make a declaration condemning something already contrary to all humanitarian, ethical and legal principles, since this would be inconsistent with the stated aim of such a declaration, as well as with current codes and beliefs. Furthermore, constitutional principles make such declarations redundant.
2. The organization's memorandum recommends that all members of the police and security services concerned with the custody or treatment of detainees be supplied with the text of the UN Declaration on the Protection of All Persons from Being Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, and the

UN Code of Conduct for Law Enforcement Officials, together with the Declaration of the President prohibiting torture. The principles of the afore-mentioned UN Declaration and Code of Conduct already have their equivalents in the statutes of Iraqi law which nowhere contradict them. Several copies of these statutes are to be found in every police station and are used at training lectures and seminars along with the "Directives of the President". So in this respect, the organization's recommendations are already being fully carried out in Iraq. It is of paramount importance to increase public and individual awareness by means of sound pedagogical principles. This already happens throughout Iraqi society.

3. The organization mentions the need for the highest authorities in the land to emphasize through public and direct instructions to law enforcement officials that any form of torture will not be tolerated.

The President's directives to the security forces stress the importance of respecting the rights and freedoms of all citizens without exception, and state that to offend against the Revolution or society is criminal therefore renders the offender liable to prosecution as prescribed by law, involving investigation and possible arrest and detention depending on the enormity of the offence and its threat to society. The above directive is not inconsistent with Articles '3' and '5' of the UN Declaration (on the Protection of All Persons from Being Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment). It does not mean that those who offend against the Revolution must face procedures which are prohibited or unlawful. This is guaranteed by existing laws and other directives issued by the President and by the authorities, with which the security forces fully comply. The organization's interpretation is both unacceptable and untrue.

The Police Department has issued numerous directives to its personnel to follow the proper investigation procedures, and has warned strongly against abuse of power. Furthermore, the police

training college teaching advises the use of proper investigation procedures. The police and Public Prosecutor's office are monitored in order to safeguard this principle, and legal measures are required by law for any breach of regulations or abuse of power.

4. A. A fundamental legal principle in Iraq is that no one may be arrested or detained except by means of a warrant issued by a judge or court, or where otherwise allowed by law. Consequently any statement intended to emphasize this principle would be redundant since it is already meticulously respected.
- B. Iraqi judicial practice includes safeguards to protect detainees from assault. It should be borne in mind that detention takes place at specific and publicly known places, these are police stations until court verdicts are pronounced, from where detainees are transferred to reformatories if they have been sentenced to loss of freedom. These reformatories too are monitored by legal and administrative staff. Inmates are, furthermore, entitled to petition the authorities, who have to investigate fully all complaints of mistreatment and punish offenders. The Police Department contains an investigation office, supervised by the Director-General of Police, whose jurisdiction extends throughout Iraq. Its task is to examine all complaints made by citizens against the police and to refer cases with sufficient evidence for trial. In fact several of the police have been punished by their superiors and others have been brought before special courts.
5. The prosecution plays a real and active part alongside the other special arrangements for achieving justice and protecting society. As stipulated in the Law of Legal Reform and laid down in the Law of Public Prosecution, the prosecution's purpose is to ensure the full legality of all applications of the law.

Fulfilling this noble task involved ceaseless efforts to create machinery for the Prosecutor-General effective enough to produce complete understanding of the essential functions and principles of

legal statutes and provisions. In its present form, this machinery is a firm, sure guardian of society and its principles, and of individual rights and freedoms.

6. It is widely believed that all rights and freedoms stem from the fundamental right to life. This right is self-evident, and exists by means of its particular guarantees and results rather than because of any actual text. If the right to life exists then it must be safeguarded together with the rights of society by means of penalties whose severity varies in proportion to the enormity of the offence. Procedures established to protect this right cannot be considered a violation of the right itself without our staying in a vicious circle.
7. The Protocol attached to the International Treaty on Civil and Political Rights is essentially optional. This characteristic cannot be the subject of prolonged discussion. Therefore, the recommendation about its ratification is illogical.
8. If we accept the organization's statement, referring to more than one matter, that the letter of the law is not in itself sufficient safeguard against prohibited treatment, then we have the right to question the importance and purpose of a statement issued prohibiting torture; or an international declaration circulated among certain categories of citizen; or orders given to the Public Prosecutor. How can all these prove more effective safeguards than the letter of the law?
9. As regards the suggestion that the death penalty be abolished we would ask the following: If the motive is purely humanitarian, then it should be dependent on the degree of harm that may be done to an individual or group, and may be justified on these grounds. However, if the harm done is to society as a whole in as much as it undermines its stability and its very structure, then abolition or reduction of the penalty cannot protect society, and is rejected by

society itself. And what about the victims of murder and their families? Thus we find that most nations have not abolished the death penalty, and that among those that have, several have begun to reconsider their decision.

CONCLUSION

Clearly the organization still bases its conclusions on mere allegations that stem from prejudice against Iraq, without first investigating their accuracy. It avoids any reference to the positive features, and the explanations given by the officials about which it expressed complete satisfaction during its delegation's recent visit to Iraq. This may in general be described as a repetition of previous reports rather than a true account of the visit of its delegation, led by the Secretary General and described by it at the time as successful.

AMNESTY INTERNATIONAL'S COMMENTS

INTRODUCTION

Amnesty International is pleased to receive the Iraqi Government's reply to the memorandum, submitted by the organization last May.

The government states in its reply that the memorandum again raises numerous issues that it, the Iraqi Government, has already "fully dealt with and answered in our long and detailed reports as well as in talks between Iraqi officials and the organization's delegation during its last visit to Iraq".

In recent years Amnesty International has frequently informed the government about its concerns in Iraq, including allegations of torture, the lack of basic legal safeguards in special courts and the use of the death penalty as described in the memorandum. The government has usually not replied. When it has responded to Amnesty International's complaints and questions it has persistently dismissed the allegations as untrue, quoting Iraqi laws which prohibit such human rights violations.

Amnesty International's delegates' discussions with officials in Iraq in January 1983 did not diminish the organization's concern about human rights violations in the country, despite the renewed assurances given by the officials that both the Iraqi constitution and Iraqi law provide safeguards against torture, unfair trials and the use of the death penalty for political offences.

Amnesty International remains concerned that allegations of human rights violations in Iraq have persisted. It believes these allegations are sufficiently grave and consistent to warrant thorough official investigation, and that clear and effective steps should be

taken to ensure that human rights violations do not occur. It was in the hope of encouraging such developments that Amnesty International sent this memorandum and made its recommendations.

Amnesty International does, however, welcome promises made by Iraqi officials during these discussions to provide information on a number of individual cases raised by the organization. Amnesty International notes that since the mission it has received letters from the President of the Revolutionary Court and the Minister of the Interior which, although incomplete and in one instance contradictory, respond to some of Amnesty International's questions (see Appendix A). Amnesty International hopes that these letters are signs of the government's willingness to provide detailed information and to pursue a productive dialogue on matters of concern.

I. MEETINGS BETWEEN IRAQI OFFICIALS AND AMNESTY INTERNATIONAL DELEGATES DURING THE ORGANIZATION'S MISSION TO IRAQ IN JANUARY 1983

The government's reply suggests that there was some misunderstanding about the follow-up to the January talks in Baghdad. Amnesty International states in its memorandum that "when the [Iraqi] officials did not have the necessary facts about some matter they promised in some cases (but not invariably) to make inquiries and to pass on relevant information to Amnesty International" (Amnesty International memorandum page 1). The Iraqi Government, in its reply, states that "the officials in question provided the delegates with all the requested clarification and information when they met, and the delegates did not disagree with the officials about any of these issues which they raised".

Based on its understanding that Iraqi officials had promised, during the discussions, to make some inquiries and transmit relevant information to the organization, Amnesty International summarized the matters requiring further clarification in letters written on 2 and 3 March to the Ministers of the Interior, Justice, Labour and Social Affairs and the President of the Revolutionary Court. In letters

written on 19 May to the same officials Amnesty International repeated its request for the required information. On 16 June and 12 August the organization received replies to its letters from the President of the Revolutionary Court and from the Minister of the Interior. (The relevant passages from Amnesty International's letters and the replies received are reproduced in Appendix A.)

In its reply the government points out that the mission delegates did not accept an invitation from Iraqi officials to make "fact-finding visits to the reform section at Abu Ghraib (prison) and other penitentiaries".

The terms of reference of this particular mission, as communicated to the government beforehand and agreed to by it, were to discuss with officials the conclusions and recommendations set forth in the organization's 1981 publication, Iraq: Evidence of Torture; the legal and administrative practices and procedures in pre-trial detention cases, particularly in those referred to the Revolutionary Court or other special courts; and the death penalty, especially the legislation and procedures whereby people can be sentenced to death. These were the only matters the delegates were authorized by the organization to raise; they were not authorized to perform other tasks.

II. TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The government states that Amnesty International's conclusion that there is torture in Iraq and that it is widespread is "based on false allegations made by people who fled from Iraq". It stresses that the government "utterly repudiate all types and methods of torture wherever they occur and at whatever level" and that Iraqi law prohibits such methods. Furthermore it offers to investigate the individual allegations of torture documented in Iraq: Evidence of Torture.

Amnesty International has frequently drawn the Iraqi authorities' attention to the names of and particulars about torture victims, and has supplied material revealing the nature of the ill-treatment inflicted and which agencies are responsible for torture. The government

has seldom replied. When it has it has simply dismissed the allegations as untrue and without foundation. During the mission the delegates were told that complaints of torture and ill-treatment had been investigated and officials found guilty of assault punished. However Amnesty International has received no documentation to this effect nor any convincing evidence that the treatment of those arrested is properly and independently supervised.

Amnesty International welcomes the government's willingness to investigate torture allegations but cannot name any of the 14 torture victims whose cases featured in Iraq: Evidence of Torture. As a matter of principle Amnesty International always respects the wishes of torture victims or their families not to have their identity revealed. The organization publishes testimonies only when it is convinced that they are genuine.

Amnesty International would, however, urge that impartial inquiries be made into the following cases, which it has in the past brought to the Iraqi authorities' attention without receiving any response, and that the methods and findings of such inquiries be made public.

REBER MULLA HUSAIN, an Iraqi Kurd aged about 19, was in the third form at Intermediate School and ran the Kurdistan Students' Union in Zakho. He was reported to have been arrested on 20/21 April 1976 and to have died under torture on 24 April. His body was returned to his family in Zakho on 26 April. Nine nails were apparently found stuck in his body; one of his eyes had been gouged out; and his penis had been amputated. Amnesty International asked the government about this case in February 1977.

SAYYID MUHAMMAD ISMAIL, an 80-year-old Kurd, was arrested during May 1977 and died soon after in custody, reportedly as a result of torture. He was arrested in connection with his son's alleged involvement in blowing up a secret

police car in Arbil in northern Iraq. His body was returned to his family bearing marks of torture. Amnesty International asked the government about this case in October 1977.

HAJI SAYYID MA'ROUF, a 62-year-old Iraqi Kurd, was arrested in July 1977 and reportedly died under torture in the secret police headquarters in Kirkuk. He was arrested for questioning after his son had left home to join the Pesh Mergas. Amnesty International asked the government about this case in October 1978.

HAMEED 'ATI, a member of the Iraqi Communist Party, was alleged to have died as a result of torture on 3 September 1978. He is reported to have been suspended from a ceiling fan while it was on, beaten all over with a wire whip and electrocuted. Amnesty International asked the government about this case in February 1979.

ADNAN ABD AL JABBAR, a young man, said to be a "friend" of the Communist Party, allegedly died in a Baghdad hospital on 1 October 1978 as a result of torture. He is reported to have been beaten with truncheons, suspended by the feet and to have had a wire inserted in his anus. This led to a kidney failure and death. Amnesty International asked the government about this case in February 1979.

BURHAN AL SHAWI, a 27-year-old journalist, was arrested in Baghdad on 3 November 1978 by plainclothes security officers. He was held for nine days in security headquarters in Kharkh, Baghdad, during which time he was tortured. (The case is fully documented in Iraq: Evidence of Torture.) Amnesty International asked the government about this case in February 1981.

MUZHIR HALL AL RACHID, known as Abu Karim, aged about 40, a Shi'i from the town of Al Nasiriya (south-east of Baghdad), belonged to the Iraqi Communist Party and was Secretary of the party's local committee. He was arrested on 1 August 1979 and reportedly died in custody as a result of torture. Amnesty International asked the government about this case in January 1980.

ALI HAMA SALIH, a 12-year-old Iraqi Kurd from the village of Ja'aferan in Sulaimaniya Province was arrested on 25 February 1981 and detained for interrogation at Karadagh security headquarters. On 5 March his body is alleged to have been returned to his family severely marked by torture. Amnesty International asked the government about this case in November 1981.

As it stated in its memorandum, Amnesty International has also received reports on 30 other people who are said to have died under torture while in custody between July 1979 and March 1981. The organization is disclosing the names of 16 of them (see Appendix B) and urges the government to investigate these cases as well.

III. ARREST AND DETENTION PROCEDURES

The government challenges Amnesty International's statement that arrest and detention procedures for political suspects, as prescribed in the Code of Criminal Procedure, are not followed. Furthermore it claims that there are no political suspects or detainees in Iraq and states that no one may be detained without an arrest warrant issued by the judiciary or the investigating magistrate and that "suspects are detained in official police stations" and are "entitled to contact their relatives, appoint a defending lawyer and be seen by a doctor".

Over the years there have been persistent reports of people being arrested, tortured, imprisoned and sentenced to death for their political activities and membership of illegal parties, including the

Iraqi Communist Party, the Kurdish Democratic Party, the Patriotic Union of Kurdistan and Al Da'wa Al Islamiya. The government statement that there are no political suspects or detainees is particularly disquieting considering the numerous prison and death sentences which have been passed in accordance with Revolutionary Command Council decrees and resolutions, on members of these parties for their political activities.

As Amnesty International has already pointed out, whenever it has received information that, in the case of political suspects, arrest and detention procedures prescribed in the Code of Criminal Procedure have not been followed and when it has been afraid that detainees might be tortured, it has asked where the detainees in question were, that their fundamental rights be guaranteed and that they be fully protected by law while in detention. For instance, on 24 May 1983 Amnesty International expressed concern to the Iraqi authorities about the reported arrest on 9 May in Najaf of members of the Al Hakim family and asked what their position was. On 21 June the organization telexed President Saddam Hussain and the Minister of the Interior asking about reports that six of the arrested members of the Al Hakim family had been executed on 19 May in Baghdad. The government has so far not responded.

Amnesty International is reassured by the information about solitary confinement. However its memorandum refers to the incommunicado detention of political suspects during interrogation, not to solitary confinement after conviction. As far as the latter is concerned the organization welcomes the government's repeated assurance that suspects are kept in official police stations and not held incommunicado. It therefore would be glad if the government were to look into the cases of individuals reportedly detained whose whereabouts are not known by their relatives, and to publish the findings. Appendix C consists of a list compiled by Amnesty International of people reported to have been arrested by the Iraqi security forces at various times and places whose legal position and whereabouts are still not known.

IV. SPECIAL COURTS

Amnesty International welcomes Revolutionary Command Council Decree No. 1009 of 5 August 1982, which provides for the abolition of the Kirkuk Special Military Court, and will update its information accordingly. The organization notes, however, that the same decree permits pending cases to be referred to the Revolutionary Court, whose procedures do not provide the legal safeguards by Iraqi law and the International Covenant on Civil and Political Rights.

Amnesty International is disturbed by the government's statement that the temporary special court "is needed to deal with the sectarian sedition which the enemies of the people wish to foment in order to destroy the nation's unity and upset its attempts to achieve progress and growth" and that "the Revolutionary Court is an exceptional legal institution necessary at the present stage and situation of the Revolution" and that "this court will be abolished once we have gone past the stage of revolutionary transformation which necessitates its creation".

The government uses notions such as "revolutionary transformation" and "national unity" to justify restricting people's rights. It expresses itself in such vague terms, however, that the extent to which the state may justifiably restrict people's rights remains unclear. The government's reply includes no clear explanation why "revolutionary transformation" or "national unity" would be hindered by allowing defendants basic legal safeguards.

International law recognizes the right of governments to preserve national unity. However, every government must do so in a manner compatible with respect for and protection of the fundamental human rights of every citizen. As regards the right to a fair trial, Amnesty International's position is in line with Article 14 (i) of the International Covenant on Civil and Political Rights which states:

"In the determination of any criminal charge against him, or of his rights and obligations in a suit of law, everyone

shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law".

Article 4 of the covenant allows a State Party to derogate from certain of its provisions "in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed". Such derogations are permitted only "to the extent strictly required by the exigencies of the situation" and they must not be inconsistent with the State Party's other obligations under international law. The Secretary General of the United Nations must immediately be informed of the provisions that have been derogated from and the reasons why. However, as the Iraqi Government itself has indicated, no state of emergency has been proclaimed and Iraq has not invoked the procedure of Article 4. This means that the Covenant's provisions apply to Iraq in their entirety including Article 14 which provides for a fair trial.

In its memorandum Amnesty International concluded that procedures in these special courts do not provide the legal safeguards guaranteed by Iraqi law and by the International Covenant on Civil and Political Rights. Trials in them are summary and often held in camera. There are stringent restrictions on the right to defence in the Revolutionary Court and no such right at all in the other special courts. There is no right of appeal to a higher court.

V. DEATH PENALTY

Referring to Amnesty International's disquiet because "Iraq still provides the death penalty for a wide range of criminal and political offences" and that "hundreds of people are executed every year mostly for political offences" (Amnesty International memorandum p. 19) the government claims that this statement "is no more than general conjecture with no basis in reality". It asks who these hundreds who have been executed are and which courts passed the sentences. Furthermore it dismisses Amnesty International's anxiety about imposition of the death penalty for political activities by members

of the Ba'ath Party as not being a legitimate cause for concern on the part of the organization, and gives assurances that there have been no executions in Iraq for political reasons.

On 12 June 1980 Amnesty International published a list of the names of 257 Iraqis reported to have been executed over a two-year period between 1978-1979. The names included those of individuals charged with high treason, political activity in the armed forces, political or military involvement in the Kurdish opposition, bribery and economic espionage, membership of, or association with illegal political parties and other illegal political activities. These people were said to have been tried either by the Revolutionary Court in Baghdad, by a military court, by the Special Court of Kirkuk or by other special courts. There are other references to death sentences passed in Iraq before and after 1980 in Amnesty International's annual reports.

The government claims that the execution figures given by Amnesty International in the memorandum are "exaggerated and inaccurate", but gives no official figures itself despite Amnesty International's request for them.

In stating that the death penalty is imposed for political activities by members of the Ba'ath Party the government acknowledges that this penalty is used in political cases. Although it states that such use of the death penalty is internal Ba'ath Party business, Amnesty International would insist that it is the government which in fact imposes and carries out death sentences, and that it is obliged to abide by international human rights standards. Far from being merely internal Ba'ath Party business, this passing of death sentences is a legitimate cause of grave international concern.

Amnesty International notes the government's remarks about the Al Da'wa Party and accepts that it is the duty of governments to protect their citizens from possible violence; however they should do so in such a way that no citizen's basic rights are infringed.

Finally, Amnesty International is grateful for the government's explanation about political activities after completion of military service and has corrected its information accordingly.

VI. RECOMMENDATIONS

The government's comment on Amnesty International's recommendations is that they "centre on legal procedures and ethical principles already in force" in Iraq. It repeats its assurance that the security forces have frequently been ordered "to comply with the proper procedures on investigation, with strong warnings against abuse of their powers". But Amnesty International is still worried because, apart from issuing this general order, Iraq has no detailed, stringent rules and has taken no definite steps against torture. There should be more than a mere legal prohibition of torture; there should be rules about access to prisoners, interrogation methods, supervision of interrogators and prison warders, medical treatment and documentation, the conditions for admissibility in evidence of statements made by prisoners under interrogation, investigation of complaints of torture and prosecution of the culprits. Furthermore the government has produced no information to suggest that the existing law generally prohibiting torture has been obeyed.

Amnesty International repeats its view that although laws guaranteeing human rights are important, it is essential that the government adopt measures to ensure that these rights are not violated. Amnesty International would therefore again urge the government to carry out the recommendations on torture made in the memorandum as well as consider abolishing all special courts and the death penalty.

APPENDIX A

RELEVANT PASSAGES FROM AMNESTY INTERNATIONAL'S LETTERS OF 2 AND 3 MARCH
TO THE IRAQI OFFICIALS AND THEIR REPLIES

In its letter of 3 March 1983 to the Minister of the Interior
Amnesty International wrote:

"In the course of our meetings with Your Excellency and
Deputy Minister Adnan Ghaidan, we requested the following
information which you kindly agreed to provide:

"1. Confirmation of the release or continued detention of
31 prisoners who were sentenced by a special court on
6 August 1979, and have been held reportedly in
Abu Ghraib Prison. (Their names appear in list 1 below.)
As I explained at the time, Amnesty International would
appreciate receiving the exact text of the charges
brought against those who are still in prison.

"2. During our visit Deputy Minister Adnan Ghaidan confirmed
to us the release of Dr. Hussain Al Shahrastani,
Ja'afar Dhia Ja'afar and Hassan Muhammad Rajai. Amnesty
International should like to be informed of the exact dates
of their release.

"Concerning the case of Safa Al Hafidh and Sabbah Al Durrah,
the deputy minister also informed the delegation that these
two persons had disappeared and that they were sought on
suspicion of criminal activities. Amnesty International
should like to know whether any information regarding their
whereabouts has now come to light.

"3. Mr Ghaidan also informed us that the following people are not
in detention:

Ayatollah M. Ansari	arrested	September 1980
Sheikh Muhammad Taki Juwahiri	arrested	September 1980
Ayatollah Al Hashimian	arrested	September 1980
Sheikh Kadhim Hilfi	arrested	September 1980
Sheikh Nathar Hussain	arrested	September 1980
Sheikh Mahmud Demawendi	arrested	September 1980
Sayyid Muhammad Al Haidiri	arrested	September 1980
Sayyid Muhammad Irawani	arrested	in 1982
Sayyid Muhammad Badqubi	arrested	in 1982
Sayyid Kamoussi	arrested	in 1982

"Could Your Excellency confirm to us whether these people
have been detained for any length of time since 1980?"

In its letter of 2 March 1983 to the Minister of Justice
Amnesty International wrote:

"In the course of our meeting with Your Excellency and with
the Attorney General, we requested some further information
which you kindly agreed to provide:

"1. A list of people who were sentenced to death by criminal,
military and Revolutionary Courts and executed during 1982.

"2. Copies of the legal provisions which established, and
more recently abolished, the Special Military Court of
Kirkuk".

In its letter of 2 March 1983 to the Minister of Labour and
Social Affairs Amnesty International wrote:

"In the course of our meeting, you kindly agreed to confirm
to us whether the detainees (whose names appear in lists
1 and 2 below) were released as a result of the amnesty of
16 July 1982 declared by the Revolutionary Command Council,
or are still in prison."

In its letter of 2 March 1983 to the President of the Revolutionary Court Amnesty International wrote:

"In the course of our meeting we handed to you a list of persons who were tried by the Revolutionary Court. You kindly agreed to provide us with copies of the verdicts pronounced by the Revolutionary Court with respect to these persons. Their names and approximate date of sentence are as follows:

- "1. Dr. Husain Al Shahrstani sentenced February - April 1980
2. Muhsin Hassan Zair sentenced 30 June 1979
3. Majeed Jawad Kadhim sentenced March 1980
4. Hassan Rasan Al Sudani sentenced 17 March 1980
5. Hikmat Abdul Majeed Abd Wali sentenced 17 March 1980
6. Ala' Sadiq and his wife
 Fa'ika Al Ahabbah sentenced 30 June 1979
7. Dr. Riyadh Ibrahim Hussain sentenced October - November 1982".

In all four letters Amnesty International said it hoped to receive the information by the end of March.

On 16 June Amnesty International received a letter from the President of the Revolutionary Court which contained information about the seven individuals named by the organization. It did not, however, include the requested copies of the Revolutionary Court's verdict. (See above, Amnesty International's letter to the President of the Revolutionary Court.) The letter contained the following information:

- "1. Hussain Ibrahim Al Shahrstani, court case No. 82/J/980 was tried under Articles 175/1, 47, 48 49 of the penal code. He was sentenced to life imprisonment. However he was recently released. The Amnesty International delegates were invited to visit him in his home in Baghdad but they did not accept.

- "2. Muhsin Hussain Zair, court case No. 1376/J/79 was tried under Articles 175/1, 200 47, 48, 49 of the penal code. He was sentenced to life imprisonment. However he was amnestied on 13 August 1979 and released.
- "3. Majeed Jawad Kadhim. After checking our records we could not find the above name among those of people who have been sentenced. However, there is a person called Majeed Jawad Kadhim Al Idani who is a doctor. He was arrested and tried under Article 341 of the penal code and was released according to Article 182 of the Procedure.
- "4. Hassan Rasan Al Sudani. After checking our records we found an accused called Hassan Rasan Asmar who was tried under Article 226 of the penal code. He was, however, released on bail; but fled to an unknown place. He was told via the news media to return.
- "5. Hikmat Abdul Majeed Abd Wali, Ala' Sadiq and his wife Fa'ika. After checking our records we found no accused individuals with these names who have been tried.
- "6. Dr Riyadh Ibrahim Hussain, court case No. 1778/J/982 was tried under Articles 159, 167 which refer to Articles 135, 136 of the penal code, and sentenced to death by hanging".

On 12 August Amnesty International received a letter from the Minister of the Interior. In reply to the organization's first question (see above Amnesty International's letter to him), he confirmed that the 31 individuals named on list 1 had been released and added that:

"they were tried by a special court set up in accordance with the Iraqi constitution. They were charged with plotting against the authorities as well as plotting against the party as they are all party members. This is an internal affair that concerns the Arab Socialist Ba'ath Party and its internal organization. However they were

released and honoured by the President of the Republic, although some of them were sentenced to over 10 years' imprisonment. This is further evidence of the guarantees given to detainees and of the authorities' compassion although they plotted against them".

Replying to Amnesty International's second question, the Minister of the Interior wrote:

"During the Amnesty International Secretary General's visit to Iraq, Deputy Minister of the Interior Adnan Ghaidan explained that some of the people mentioned by the Secretary General had been released. I am taking this opportunity to confirm this as Ja'afar Dhia Ja'afar has been released. It would have been possible, furthermore, for the delegates to have met him. As for Dr Hussain Ibrahim Salih Al Shahrastani, he was sentenced to life imprisonment under Article 175 of the penal code for the crime of conspiring to commit offences against the internal security, independence and unity of the state. An unlicensed military weapon and explosives were found in his possession. He also collected contributions to finance plotting.

"As regards the cases of Dr Safa' Al Hafidh and Sabah Al Durrah, no information is at present available on their whereabouts."

His answer to Amnesty International's third question was an assurance that the government did not know the people on Amnesty International's list and that they had not been detained for any length of time since 1980.

Amnesty International has also received from the Iraqi Government a copy of the decree which abolished the special Military Court of Kirkuk. It has not, however, received any response from the Minister of Justice and the Minister of Labour and Social Affairs.

Finally, the organization notes that information given by the Minister of the Interior on the whereabouts of Dr Hussain Ibrahim Al Shahrastani contradicts the information given by the President of the Revolutionary Court.

List 1

This group of prisoners was arrested in mid-July 1979, tried between 1-6 August 1979 by the Special Court in Baghdad and held in Abu Ghraib Prison, Baghdad.

<u>Name of Prisoner</u>	<u>Sentence</u>
Muhammad Abdul Latif Muhammad ALI	7 years
Ali Fathi ALWASH	10 years
Muhammad Manaf Yasin Muhammad AMIN	10 years
Abdul Wahid Al Haj Mu'idi AL BAHILI	10 years
Ja'afar Muhammad Ridha AL DHAHAB	10 years
Muhsin Muhammad Ridha AL DHAHAB	10 years
Badr Muhammad Abdullah DHAHIR	10 years
Kurdi Sa'id Abdul Baqi AL HADITHI	10 years
Muhammad Sabri Ahmad AL HADITHI	5 years
Shukri Sabri Ahmad AL HADITHI	10 years
Hamad Ayeshe HAMAD	5 years
Salih Abdul Karim AL HAMDANI	5 years
Talib Hamudi 'Abbas AL HAMDANI	3 years
Ali Ja'afar HUSAIN	3 years
Col. Salim Shakir Hassan AL IMAMI	7 years
Mu'iz Kathim AL KHATIB	3 years
Abdul Qadir Abd Uthman AL KUBAISI	5 years
'Adnan Yusuf KUSHAN	3 years
Ghassan Marhun MAHMUD	12 years
Ahmad Ibrahim Saleh AL OBAIDI	10 years
Fadhil Abdul Razzak AL OBAIDI	3 years
Riyadh Abdul Razzak AL QADDU	3 years

Abdul Mun'im Hadi Salih AL QAISI	10 years
Faris Husain Shahid AL QARAGHULI	10 years
Dr Munir RAZZAZ	
Dhahir Habib Ali AL RUBI'AI	15 years
Salih Flayyih Kati'a AL SA'ADI	10 years
Hamid Abdul Latif Wahid AL SAMARRAI	5 years
Ihsan Wafiq Abdullah AL SAMARRAI	10 years
Zuhair Qasim SHUKRI	5 years
Hassan Mahmud TAHA	15 years

List 2

<u>Name of prisoner</u>	<u>Date of Arrest</u>
Ja'afar Dhia JA'AFAR	Early February 1980
Dr Hassan Muhammad RAJAI	September-November 1979
Dr Hussain AL SHAHRISTANI	9 December 1979

APPENDIX B

EXTRACT FROM LIST OF PEOPLE REPORTED TO HAVE DIED UNDER TORTURE WHILE IN CUSTODY
1979 - 1981

<u>Name/Personal Details</u>	<u>Date/Place of Arrest</u>	<u>Date/Place of Death</u>
Shalita DANKHA. Born 1954, joined the Iraqi Communist Party in 1977.	March 1980	Early November 1980. Body returned to family, 22 November 1980.
Baker Abd Al-Malik DAIBAS. Worker in a car factory.	October 1980, Semawa	November 1980, family told that body was buried by security forces.
Abdul Sadeh Abdullah ELYWY. Born 1949, teacher in Najaf, member of <u>Al Da'wa Al Islamiya Party.</u>	2 October 1979	November 1979, body returned to family.
Humam Abdul GHANI. Student at Technology Institute, Baghdad, member of <u>Al Da'wa Al Islamiya Party.</u>	November 1979	November 1979, body returned to family.
Abdul Karim JASIM. Secondary school teacher at Fao, Basra.	April 1980	April 1980, body returned to family.
Sheikh Muhammad Ali AL JABERI. Assistant of the late Ayatollah Muhammad Bakr Al Sadr.	June 1979, Al Nasiriya	June 1979
Abdul Hussain KADIM. Sport's Instructor, joined the Iraqi Communist Party in 1969.	November 1980	November 1980

<u>Name/Personal Details</u>	<u>Date/Place of Arrest</u>	<u>Date/Place of Death</u>
Ismail KALIL. Editor of Tariq Al Sha'b, member of the Iraqi Communist Party.	14 July 1980	14 July 1980, body returned to family.
Abdul Amir Hamid AL MANSURI. Teacher from Basra.		Security Headquarters, Baghdad, body returned to family on 15 February 1980.
Abdul Ameer Nour'ddin MASHKUR. Born 1954 in Najaf. Science graduate from Baghdad University, member of Al Da'wa Al Islamiya Party.	22 June 1979	22 June 1979, Baghdad, body returned to family.
Fadhel Abdul Ameer MUHAMMAD. Born 1955 in Najaf. Construction engineer in Karbala, member of Al Da'wa Al Islamiya Party.	30 March 1980	9 April 1980
Abid Ali OBAID. Labourer.	May 1980, Baghdad	Body returned to family on 1 June 1980 bearing marks of torture.
Mohammad Sadik Abdul RAZZAK. Lecturer, College of Agriculture, Baghdad.	December 1979	January/February 1980
Sa'adun Farhan TEHMAZ. Born 1953 in Al Kut, Engineer. Arrested for his alleged activities in Al Da'wa Al Islamiya Party.	2 December 1979, Waset	2 December 1979, Waset
Abdul Hamed Thamer UMRAN. Born 1952, member of Al Da'wa Al Islamiya Party.	April 1980, Baghdad	April 1980, Baghdad
Khasim Hussain YASIN. Born 1954, in Kadhimiya, Baghdad, member of the Iraqi Communist Party.	April 1980, Kadhimiya, Baghdad	April 1980, Baghdad

APPENDIX C

List of people (reported to have been arrested between 1979-1982 by the Iraqi security forces) whose legal position and whereabouts are still not known.

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Dr Namir AL A'AMI	1980	University professor
Abd Al Chidher ABBAS	1981, Baghdad	Student at college of management and economics, Al Mustansiriya University.
Feryal ABBAS	18 September 1980, Baghdad	University student, Baghdad
Najat ABBAS	January 1980, Baghdad	University student
Sameer ABBAS	August 1981, Al Thawra, Baghdad	Secondary school student
Aziz ABDULLAH	May-June 1980, Basra	Student of engineering, University of Basra.
Bakhsan ABDULLAH	May 1980, Kurdistan	31-years-old, teacher of physics.
Majid ABDALLAH	First week of February 1981, Suleimaniya	

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Thamen Ali ABOUD	December 1981, Baghdad	25-years-old, poet.
Ali Abdul RAHMAN	October 1981, Halabja	
Abd Allah Muhammad AGHA	13 January 1980, Arbil	
Dr Adnan AKIF	May 1979	Geologist and member of Iraqi Communist Party.
Badria Dakhil ALAWI	14 August 1980, Baghdad	54-years-old, member of the Iraqi Womens' League.
Wathab Talib ALBENDR	May 1979	University student
Jamal Abed ALI	May-June 1980, Basra	Student of engineering, Basra University.
Shirwan ALI	May 1979	Former representative of the Iraqi Communist Party in the Executive Council of the autonomous region of Iraqi Kurdistan.
Hussain ALWAN	March 1982	Teacher
Ali Muhammad AMIN	October 1981, Halabja	
Faraj Mala AMIN	October 1981, Halabja	
Kamal Muhammad AMIN	First week of February 1981, Suleimaniya	
Saad Talib AL ARAGI	April 1981, Baghdad	22-years-old, teacher.

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Munir ASKAR (Abu Salaam)	May-June 1980	Primary school teacher.
Amer Abbass AUDA	February 1980, Babylon	
Abd AL AZIZ	October 1981, Halabja	
Dr Hussain Qasim AL AZIZE	1980	Writer and editor of Al Fikr Al Jadid
Dr MUSAIED Lafti AL BADRI	July 1980	34-years-old, doctor.
Dr Talib AL BAGHDADI	1980	Economist
Layla Abd AL BAQI	4 September 1981, Baghdad	Third year student at College of Technology.
Hashim Ahmad BASHIR	February 1982, Baghdad	
Adel CHAKER	7 June 1980, Baghdad	Student
Wadi'a Hadi DAQUD	June 1980, Baghdad	Mother of 3 children
Ra'uf Daybis	May 1979	Lawyer
Ahmed Diab	7 June 1980, Baghdad	Worker
Abbas Kadum Fakhr AL DIN	January 1981, Najaf	Previously sentenced to life in February 1977, amnestied on 17 July 1978.
Alwan AL DULAIMY	11 April 1981, Baghdad	Businessman

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Khalid FADHIL	1981, Baghdad	Student in Karbala
Nash'at FARAJ	July 1980, Iraqi Embassy in Yugoslavia	Student in Yugoslavia
Sa'adun Fadhil FARAJ	Late August 1980, Baghdad	Teacher
Samir FAROUQ	May 1982, in front of Security Headquarters, Arbil	Student at college of engineering, Arbil.
Muhammad Karim FATHALLAH	1980	Director of Al Fikr Al Jadid, member of the editorial staff of Tariq ash Sha'ab and member of Iraqi Journalists Council.
Mulla Bakr FATHALLAH	First week of February 1981	
Amir Hussain AL FAYIZ	July 1981, Basra	Lawyer
Turki GHALI	September 1980	Teacher
Yunis GHANA	13 January 1981, Arbil	Mechanic
Sana'a AL HAMDANI	1982, Baghdad	Widow of Adnan Al Hamdani who was executed in 1979.
Muslem HASSAN	April-May 1981, Basra	Intermediate school student.
Reyad Hassan	April 1981, Basra	Intermediate school student.

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Jalil HAYDER	August 1982	Writer
Najiya Al Sheikh HUSSAIN	May 1979	Teacher and member of Iraqi Democratic Womens' Movement.
Suheilah HUWAIZ	First week of February 1981, Suleimaniya	Arrested with her husband, Mulla Bakr Fathallah
Mohammad Hassan IDAN	May 1979	Employee at Tariq al Sha'ab magazine
Majid Abdul JALLIL	May 1979	Lawyer
Haythoum JAWAD	7 June 1980	Student
Zuhair AL JAZZARI	May 1979	Journalist and novelist
Ja'afar Ali KADHIM	1980	Member of Iraqi Communist Party
Jawad KADHIM	May-June 1980, Basra	Student of engineering at Basra University.
Mahmud KADHIM	March 1982, Al Hilla	Teacher
Sa'ad Yahya KAF	May 1979	Former representative of the Iraqi Communist Party at the Iraqi Bar Association.
Khadhir KALARI	First week of February 1981, Suleimaniya	
Ali Abdul KARIM	April 1982, Basra	Mechanical engineer
Nafi Abdul Razzak KATHIR	May-June 1980, Basra	Lecturer at Basra University

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Kazem AL KHALILEE	August 1982	Actor, member of the Iraqi Communist Party
Saadi Murad KHUDAMURAD	3 April 1982, Baghdad	Born 1963, student.
Shaker Murad KHUDAMURAD	3 April 1982, Baghdad	Born 1955
Salem Adel Abd AL LATIF	1981, Baghdad	Student at College of Veterinary Science, Baghdad
Sahib Abdulamir Gulam Rudha MAHAN	May 1980	27-years-old, merchant in Najaf.
Na'mah MAKDAD	May-June 1980, Basra	Student of engineering, Basra University
Ahmad Musadaq MATRUD	October 1981	Graduate of Mustansiriya University and employee in Ministry of Agriculture.
Sabiha Nouri MEHDI	June 1980 Baghdad/Basra	Mother of 3 children, arrested with husband, Abdul Razak Ahmed.
Shakir Dahkil AL MIYAH	1981, Al Qadissiya	Teacher of physics
Hossein MOAYERI	29 April 1982, Sulaimaniya	Electro-technical engineer
Ja'afar MUASA	June 1980, Basra	Graduated student
Fauziya MUHAMMAD	May 1979, Al Simawa	
Iyad Hussain MUHAMMAD	22 May 1981, Hay Adan, Baghdad	Graduate of college of economics and political science, Baghdad.

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Kawther Abdul MAJID MUHAMMAD	15 July 1980, Diyali	Born 1955, secondary school graduate, worked in printing.
Raja Abdul MAJID MUHAMMAD	15 July 1980, Diyali	Mother of 2 children, graduated from Baghdad University in 1974.
Abdul Hussain Abd MUSA	May-June 1980, Basra	Student at Basra University.
Samirah Jawad Kadhim AL MUSAWI	Mid-May 1980, Baghdad	Born 1951, accountant, graduated from College of Management and Economics, Baghdad.
Sarwar Muhammad Amin MUSTAFA	28 April 1982, Baghdad	Born 1955, reservist in Iraqi army.
Musa NA'AMU	10 November 1981, Dohuk, Sina	
Adel NAJI	April 1980, Babylon	Mechanic, previously arrested in 1979 but released.
Nazar NAJM	May 1981, Basra	Intermediate school student, 16 years old.
Samir NAJM	May 1981, Basra	Secondary school student, 17 years old.
Abdul Salaam AL NASIRI	May 1979	Director of Al Thaqafa Al Jadid. Member of Central Committee of Iraqi Communist Party.
Musa OMRAN	Mid-1982, Basra	Student
Dr Marcel PIO	30 April 1979	Born 1917

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Abid RAHIM	27 February 1981, near Khani village	Peshmerga
Umar Abd AL RAHMAN	First week of February 1981, Suleimaniyah	
Dema RASHID	October/November 1980, Baghdad	Journalist
Raja'a Majid RASHID	May/June 1980, Baghdad	Mother of 2 children
Hassan Ahmed RIDA	11 April 1981, Baghdad	
Fadhil AL RUBAI'I	May 1979	Journalist and short story writer
Abbas RUSTUM	First week of February 1981 Suleimaniya	
Zahira Diab SARHAN	27 July 1980, Baghdad	Student
Adil SHAKIR	7 June 1980, Baghdad	Student
Hadi Moussa AL SHATI	5 May 1980 Mahmoudia	Teacher
Samia AL SHEIKHLY	June 1980, Baghdad	Teacher, arrested with her husband, Abdul Satar Zubair.
Hameed SHELTAGH	14 August 1980	63-years-old, retired civil servant
Karim Hameed SHELTAGH	17 January 1981	27-years-old, student.

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Ramzia Jada AL SHIABANY	15 July 1980 Hay Adan, Baghdad	Mother of 2 children, graduated in 1975 from College of Economics and Political Science in Baghdad.
Ali Jabbar SULMAN	21 September 1980, Baghdad	
Hamid SWADI	April 1982, Basra	Mechanical engineer.
Salah Abd Al Amir Nasir TA'AWANI	March 1982	
Fathil AL TA'I	May 1979	Dentist and member of Iraqi Communist Party.
Dara TAWFIQ	November 1981	Former chief editor of Kurdish newspaper, Al Ta'aki.
Muhammad Zameer UDDIN	10 April 1982, Basra	Civil Engineer at Basra
Salah Abdul WAHAB	February 1981, Basra	Assistant lecturer in Agriculture College
Ali WATUT	7 October 1980, Hilla	
Aida Mutar YASSIN	15 July 1980, Baghdad	53-years-old, member of the central committee of the Iraqi Communist Party and the board of the Iraqi Women's League.
Laila YOUSIF	June 1980, Basra	50-years-old.
Arif YUNIS	27 February 1981, village of Khani	Peshmerga

<u>Name</u>	<u>Date/Place of Arrest</u>	<u>Personal Details</u>
Abd AL ZAHRA (Abu Talib)	October 1980, Al Thawra, Baghdad	Driver
Karim Ahmad AL ZANBORI	May-June 1980, Baghdad	Student
Thair Ahmad AL ZANBORI	May-June 1980, Baghdad	Student

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