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Iraq: Security agreement puts detainees at risk of torture

Thousands of Iraqis detained by US forces will be at risk of torture or even execution if they are handed over to the Iraqi authorities, Amnesty International today warned.

The warning came as the Iraqi Parliament ratified the Status of Forces Agreement (SOFA) between the US and Iraqi governments. Under the agreement, which will take effect on 31 December 2008, around 16,000 prisoners held by the US will be transferred to Iraqi custody from the end of the year.

“The Status of Forces Agreement does not provide any safeguards whatsoever for prisoners transferred to Iraqi custody,” said Malcolm Smart, Director of Amnesty International’s Middle East and North Africa Programme.

“These prisoners will potentially be moving from the frying pan into the fire,” said Malcolm Smart. “We receive persistent reports of gross human rights violations – including torture – taking place in Iraqi prisons and detention centres. The US must ensure that no one is transferred to Iraq custody if they would face a real risk of torture or other human rights violations.”

“We need to see evidence that there is systematic improvement: detainees officially registered and held only in recognised prisons; regular, independent, and effective visiting mechanisms; prompt access to lawyers and their families and to any necessary medical treatment; and their due process rights – including the right to challenge their detention before an independent tribunal – fully respected.”

The Iraqi authorities are already holding thousands of people, many without charge or trial, and often in appalling conditions. Many have no access to lawyers. Others have been sentenced to death after trials which failed to meet international fair trial standards.

The US is currently reported to hold around 16,000 prisoners in Iraq. Most are detainees who are held without charge or trial, some for more than five years, and without recourse to any independent review of their detention.

They include former Ba’ath party officials or held posts under Saddam Hussain’s government, who could be at particular risk.

Ali Hassan al-Majid and two others sentenced to death for crimes committed under Saddam Hussain’s rule are likely to be executed if handed over to the Iraqi authorities.

The agreement contains no reference to the more than 2,000 Iranians associated with the People’s Mojahedeen Organization of Iran (PMOI), an Iranian opposition organization, who remain at Ashraf Camp in

northern Iraq, where they have been under the protection of US forces for several years.

The Iraqi government is reported to have told the PMOI that those at Camp Ashraf must leave Iraq by 31 December 2008. Some Iraqi officials have suggested that they will be forcibly expelled if they fail to comply. According to Amnesty International, the Iranians would be at risk of serious human rights violations if they were forcibly returned to Iran.

Amnesty International also highlighted that while the agreement removes the immunity against prosecution of private contractors employed by the US Department of Defense, it makes no reference to other private military and security contractors, such as those employed by the US State Department, who have previously been accused of killing civilians in Iraq.

This would include the Blackwater security firm, which was accused of gross human rights violations last year, was employed by the US State Department.

Notes to editors:

- Under the SOFA, which will replace the current UN mandate, US troops will pull back from urban areas by the end of June 2009 and withdraw from Iraq by the end of 2011.
- After 31 December, Iraqi authorities will have a greater say in the conduct of daily US military operations in Iraq.
- Article 12 (1) of the SOFA states that Iraq has the primary right to exercise jurisdiction over members of the US forces and their civilian component for any grave premeditated felonies that they commit, when such crimes are committed outside agreed facilities and outside "duty status." However, the nature of these felonies and the procedures to be followed are not clarified, and it is the US authorities who will determine when its soldiers or employees were acting under "duty status."