

EXTERNAL

15 JULY 1991

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AI Index: MDE 14/06/91

**@THE NEED FOR FURTHER UNITED NATIONS ACTION TO PROTECT HUMAN RIGHTS  
IN IRAQ**

Amnesty International is deeply concerned for the lives and safety of hundreds of thousands of Kurds, Arab Shi'a Muslims and others in Iraq whom it believes to be at serious risk of grave human rights violations, including arbitrary arrest, torture, "disappearance" and extrajudicial executions. It appears that the actions taken by the international community, including the United Nations (UN), and the international attention focussed on Iraq following the crushing by the Iraqi Government of the mass uprising in the country in March and April have so far provided some measure of protection for the civilian population in Iraq and may well have served to check what would almost certainly have been further large-scale killings and other reprisals by the Iraqi Government. However, these checks are tenuous at best and do not address the underlying crisis. Recent reports by UN officials of evidence of a military build-up in the south of the country have exacerbated fears that the Iraqi Government may plan to take harsh measures against the Arab Shi'a Muslim population there. Similarly, reports that the coalition forces presently in the north of the country protecting a number of Kurdish areas may shortly be withdrawn would mean that the Kurdish population, many of whom have recently been encouraged to return to Iraq, also face a serious risk of large-scale human rights violations in the absence of adequate measures to guarantee their safety.

The actions already undertaken by the UN in recent months with respect to Iraq are a recognition by the international community of the severity of the threat facing the Iraqi population and the necessity of taking concrete steps to address this. However, Amnesty International believes that further urgent measures by the UN are needed at this critical time, both to ensure the immediate protection of all those who are believed to be at risk of grave human rights violations in Iraq and also with a view to ensuring that durable and effective human rights guarantees are established in the country, and that the Iraqi Government undertakes to abide by its international obligations and to respect the fundamental human rights of all its citizens in the future.

Amnesty International's concern that the Iraqi Government may resort to carrying out massive human rights violations against large numbers of the population is based on that government's record of responsibility for gross and extensive human rights violations over the past decade and, most recently, following the uprising in March and April this year. The government's actions have been openly in contempt of its responsibility under international law to the international community and to its own citizens to respect human rights. The violations which have been committed in Iraq have shocked the world.

The violations of human rights perpetrated in the name of the Government of Iraq in the past decade have been regularly documented by various non-governmental human rights and humanitarian organizations. Amnesty

International believes that such documentation, including its own reports, reflect only a small part of the actual record of human rights violations in Iraq. These violations have included widespread arbitrary arrests of men, women and children, many of whom were not arrested for taking part in illegal political activity, but simply for failing to demonstrate sufficient allegiance to the country's leaders, its government and its institutions. Others, among them infants, were detained as hostages in lieu of political suspects being sought by the authorities, or in order to force detained suspects to "confess" to alleged crimes. Political detainees in Iraq have been subjected to indefinite detention without trial, or have been sentenced to terms of imprisonment or to death following summary trials. Their fate, in many instances, has remained unknown until they have either been released or executed. They have also faced routine torture and ill-treatment, and large numbers of detainees have died under torture or have suffered permanent physical and mental damage. Thousands of Iraqis have "disappeared" following their arrest by security, intelligence or military personnel, and their fate and whereabouts remain unaccounted for to this day; many are feared dead. Some of these unresolved "disappearances" date back to 10 or 12 years ago while others have occurred in the past few months in the context of the uprising. Among those who "disappeared" are individuals who surrendered to the authorities in order to benefit from official amnesties. Furthermore, over the years the Government of Iraq has increased rather than decreased the number of offences punishable by death, and introduced capital punishment for non-violent political activity.

It has introduced legislation which provides for the death penalty to be applied retroactively. It has carried out thousands of executions, including of children, without trial or following trials which fell far short of international standards for fair trial. Families of these victims are forbidden to hold public mourning, and often have been forced to pay for the ammunition used for the executions. Unarmed men, women and children have been killed on a large scale as a result of indiscriminate bombardment of civilian targets and the use of chemical weapons. Other government opponents, including some in exile, have been poisoned or shot down.

Over the years, Amnesty International has obtained the names and other information about thousands of victims of the human rights violations outlined above; details of the conduct of trials before the Revolutionary Court and military courts; medical evidence supporting allegations of torture; and details of instances of extrajudicial killings. The organization has repeatedly appealed to the UN to take action in respect of the human rights situation in Iraq. In many of its oral statements to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities in recent years, for example, Amnesty International has drawn attention to continuing reports of grave human rights violations in Iraq and has called on the UN to take adequate measures to respond to these.

In August 1988, in the aftermath of the chemical weapons attacks on the town of Halabja in which an estimated 5,000 unarmed civilians died, Amnesty International delivered an oral statement to the 40th session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

It stressed its "grave fears that in the aftermath of the [Iran-Iraq] war a further significant deterioration in human rights could occur in Iraq ... [and] that there will be a need for close monitoring of the situation". Even as the statement was being delivered, thousands of unarmed civilians were once again being deliberately and systematically killed in another wave of military and chemical weapons attacks in northern Iraq, attacks which resulted in the

exodus of over 50,000 Kurds to Turkey. The following year, in a statement to the 45th session of the Commission on Human Rights, Amnesty International again highlighted the continuing violations in Iraq and stated that "Iraq clearly and incontrovertibly presents a situation of the most flagrant and massive violations of human rights. We can think of none which cries out more for international attention and action". The need for such action by the UN was most recently stressed again in a statement by the organization to the 47th session of the Commission earlier this year. Furthermore, in September 1988 Amnesty International addressed a special appeal to the UN Security Council urging it to act immediately to stop the massacre of Kurdish civilians by Iraqi forces.

The restoration of sovereignty of Kuwait in February 1991 and the subsequent access by journalists and others to parts of Iraq afforded the international community an opportunity to examine at close quarters the atrocities committed in the name of the Iraqi Government. Yet such atrocities, which have shocked the world community, have been the norm in Iraq for more than a decade, and have even been brutally repeated shortly thereafter as Iraqi Government forces sought to crush the mass uprising in March and April this year.

In April and May, Amnesty International delegates interviewed over 500 refugees in Turkey, Iran and areas of northern Iraq where coalition forces and UN personnel were present. They provided the organization with consistent reports of widespread arrests, torture and mass extrajudicial executions of individuals suspected of having taken part in the uprising. Unarmed civilians, including women and children, were also deliberately targeted by helicopter gunships as they fled towards the borders of Iraq. Amnesty International obtained eye-witness testimonies of incidents involving firing-squad executions, the use of unarmed civilians as "human shields" and the crushing of others by tanks. The organization also obtained the testimonies of former detainees taken as hostages during the uprising in order to deter further attacks by opposition forces. Since the crushing of the uprising, widespread arrests of individuals suspected of having taken part in it are believed to be continuing, and there are grave fears for the lives of the scores of people who have returned to Iraq following the announcement of recent government amnesties.

The brutality of the abuses recently perpetrated, as recounted by victims and eyewitnesses, is entirely consistent with Iraq's past record in the field of human rights. In a country where failure to demonstrate sufficient allegiance to the government is harshly punished, the prospects for those who have openly and publicly defied government authority during the uprising are grim.

Amnesty International considers that the international community, acting through the UN, has a clear responsibility to take adequate measures to address situations of grave human rights violations wherever these may occur. One of the fundamental purposes of the UN, set out in Article 1 of its Charter, is to promote and encourage respect for human rights and "to achieve international cooperation in solving international problems of...[a] humanitarian character". Furthermore, all member states of the UN are committed, pursuant to Articles 55 and 56 of the Charter, to act jointly and separately in cooperation with the UN to achieve universal respect for and observance of human rights and fundamental freedoms. Article 55 also establishes the clear link between respect for and observance of human rights and "the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations...".

The achievements of the UN in the field of human rights during the past 40 years since the adoption of the Universal Declaration of Human Rights - including the subsequent adoption of a wide range of international human rights instruments and the various methods and mechanisms which have been set up by the UN to monitor at an international level the implementation of these instruments and to ensure the promotion and protection of human rights in all countries of the world - are a cogent demonstration that the protection of human rights is incontrovertibly a matter of international responsibility and should be subject to international scrutiny. Nor can measures for the protection of human rights be considered in isolation; they should be an integral part of wider political discussions, particularly when the UN is directly involved in such discussions. Indeed, in his 1990 Report on the work of the United Nations, the Secretary-General stated that "resolution of conflicts, observance of human rights and the promotion of development together weave the fabric of peace; if one of these strands is removed, the tissue will unravel". He also pointed out in that report that "the past year has seen the conversion of human rights from a subsidiary theme of the international discourse to a dominant concern" (UN doc. A/45/1 of 16 September 1990).

Increasingly, human rights considerations are playing an important role in the UN's activities in the international arena, as has been demonstrated in the UN Independence Plan for Namibia, in the plan for the implementation of the settlement proposals for Western Sahara, in the negotiations concerning Cambodia and by the UN role in the verification of the Agreement on Human Rights reached between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional. Although the circumstances in which such discussions take place and the objectives to be reached may vary greatly, it is the responsibility of the UN to ensure that respect for human rights is taken into account in an impartial and objective manner at all times. Such responsibility should also include, whenever this is necessary, concrete action to protect individuals at risk of grave violations and to prevent situations of massive violations from occurring or continuing unchecked.

The human rights situation in Iraq has already been taken up for special action by the UN. This began in August 1990 when the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted Resolution 1990/13 on the situation in Iraq and in occupied Kuwait at its 42nd session in Geneva. This resolution, inter alia, expressed concern about "the situation of thousands of displaced Kurds living in camps in the north of Iraq, and the attacks on, and the forced displacement of, a part of the Shi'a population in the south". It called on the Iraqi Government "to ensure full respect for human rights and fundamental freedoms" and on the Commission on Human Rights to study the human rights situation in that country with a view to bringing it under special scrutiny. At its 47th session the Commission on Human Rights also adopted a resolution on the human rights situation in Iraq in March 1991. Resolution 1991/74 expressed the Commission's grave concern "at the flagrant violations of human rights by the Government of Iraq" and urged the Iraqi Government to guarantee full respect for human rights of all persons in Iraq irrespective of their origin and in particular to end summary or arbitrary executions, "disappearances", torture and the arbitrary detention of political and religious opponents. The Commission took the further step of appointing a Special Rapporteur whose mandate is "to make a thorough study of the violations by the Government of Iraq" and to report thereon to the 46th session of the General Assembly and the 48th session of the Commission on Human Rights.

The UN Security Council has also taken the human rights situation in Iraq into consideration, particularly following the ceasefire agreement and in the light of the outflows of refugees from Iraq fleeing massive human rights violations which began in March this year. Resolution 688 adopted by the Security Council on 5 April expressly condemns "the repression of the Iraqi civilian population in many parts of Iraq, including most recently the Kurdish populated areas, the consequences of which threaten international peace and security in the region". The resolution demands that Iraq "immediately end this repression" and expresses the hope that "an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected". It insists that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance. The resolution requests the UN Secretary-General to pursue his humanitarian efforts in Iraq and to report on "the plight of the Iraqi civilian population, and in particular the Kurdish population, suffering from the repression in all its forms inflicted by the Iraqi authorities", and demands that Iraq cooperate with the Secretary-General.

Amnesty International believes that the UN has a continuing responsibility to address the human rights situation in Iraq and to take all necessary measures to ensure the protection of the civilian population at this critical time. In such an unstable and precarious situation the international community cannot once again stand by and wait until further violations are committed and another human rights crisis presents itself before any concrete action is taken. What is needed urgently are durable preventive measures to protect the population from further repression. In addition, there must be established verifiable international guarantees to ensure that Iraq strictly adheres to its international obligations in the field of human rights and takes all necessary steps to put in place the mechanisms and institutions to restore the rule of law and to ensure that the fundamental human rights of all its citizens are respected.

The Memorandum of Understanding reached on 18 April 1991 between the UN Secretary-General's Executive Delegate, Prince Sadruddin Aga Khan, and the Minister of Foreign Affairs of Iraq, H.E. Ahmed Hussein, provides for humanitarian assistance and relief, in particular to displaced persons and returnees, and for the setting up of UN sub-offices and Humanitarian Centres (UNHUCs) to establish a humanitarian presence in Iraq wherever such presence may be needed. A further agreement dated 25 May 1991 between the Executive Delegate's Coordinator in Iraq, Mr Bernt Bernander, and the Minister of State for Foreign Affairs of Iraq, Mr Mohamed Said Al-Sahaf, and forming an integral part of the 18 April Memorandum of Understanding, sets out the arrangements for the deployment in Iraq of a United Nations Guard Contingent, numbering up to 500 Guards, to be assigned as needed to transit centres and UNHUCs.

These measures do constitute a recognition by the UN of the urgent need to address the plight of the Iraqi population. Indeed, the Memorandum of Understanding clearly states that "Both sides recognize the importance and urgency of adequate measures, including the provision of humanitarian assistance, to alleviate the suffering of the affected Iraqi civilian population". These agreements also mean that a UN presence and an infrastructure is in the process of being established in Iraq. However, Amnesty International believes that the steps taken so far are insufficient to address the critical human rights situation there; further measures of protection more specifically aimed at the durable and on-going protection of human rights are still needed.

Amnesty International calls on the UN to reinforce the steps already taken by undertaking measures specifically to address the human rights concerns outlined above. Building on the agreements already reached and the measures now being put into effect could contribute substantially to this end.

Amnesty International considers that what is needed is the establishment under UN auspices and control of an on-going human rights monitoring operation in Iraq. This should be carried out by a UN body which would maintain a presence in the country as long as is necessary with specific responsibility to address the question of human rights violations and the protection of individuals at risk; recommend measures to prevent further violations; and ensure the establishment of more durable human rights guarantees aimed at the longer-term protection and promotion of fundamental human rights for all citizens of Iraq. Such a body should report regularly to the relevant organs of the UN. The establishment of such a monitoring body need not, and should not, preclude the continuing work of other organizations, particularly international humanitarian organizations, from carrying out their activities in the field of human rights and humanitarian assistance on behalf of the people of Iraq.

Such a UN monitoring body would need to have sufficient human and financial resources to establish a visible presence in all regions of the country. It would need to have the authority to receive and investigate information concerning alleged human rights violations and to make recommendations to the Iraqi authorities regarding such allegations, including ensuring, whenever necessary, that urgent interim measures are taken to protect the life or physical and mental integrity of any individuals pending a fuller investigation of the situation. Specific elements of its mandate could also include visiting places where persons may be detained or otherwise deprived of their liberty and interviewing such persons in private and also observing trials and other court hearings with appropriate access to relevant documents. Such a body would need to coordinate its activities closely with other UN structures and personnel in Iraq and it would be desirable for it to consult with other relevant UN bodies in the performance of its mandate, including, for example, the Special Rapporteur on Iraq appointed by the UN Commission on Human Rights.

Such a monitoring body could also play a valuable role in formulating and discussing with the relevant authorities in Iraq the implementation of recommendations aimed at building up or strengthening national institutions and infrastructures in the field of human rights in order to ensure in the longer-term the implementation of international human rights standards, including in particular the international human rights treaties to which Iraq is a party, such as the International Covenant on Civil and Political Rights.

The international human rights standards which are of particular relevance and of fundamental importance in the current situation include standards relating to the use of force and firearms; the conduct of law enforcement officials; the protection of detainees and others against the use of torture; safeguards against arbitrary arrest and the rights of anyone deprived of their liberty; the proper investigation of summary or arbitrary executions; minimum standards to ensure a fair trial and to guarantee the independence of the judiciary and the legal profession; and all other internationally-accepted standards aimed at ensuring respect for the right to life and the protection of the physical and mental integrity of the person.

The presence and the powers of such a human rights monitoring body would need to be adequately publicised in Iraq and it would be important for the Iraqi

Government to give its assurances that the UN monitoring body would be able to carry out its mandate without interference or harassment and, in particular, that no reprisals would be taken against anyone who were to be in contact with the monitoring body or against their relatives.

Amnesty International urges the international community to act now to forestall a further human rights crisis in Iraq and to take all appropriate steps to support and secure the establishment of a UN monitoring body as an integral part of the other measures being carried out under UN auspices to ensure the full compliance by the Iraqi Government with its international obligations. There can be no lasting security for the civilian population in Iraq unless and until the fundamental human rights of all those in Iraq are fully respected and guaranteed.