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## EXECUTIVE SUMMARY

Amnesty International is submitting this briefing to the United Nations (UN) Human Rights Committee (the Committee) ahead of its examination in October 2015 of Iraq's fifth periodic report on its implementation of the International Covenant on Civil and Political Rights (ICCPR or the Covenant). The submission focuses mainly on arbitrary arrest and detentions, enforced disappearances, torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment), abuses within the administration of justice and freedom of expression and peaceful assembly.

Amnesty International fully recognizes the immense challenges currently facing the Iraqi people and government, not least in the fight against the armed group which calls itself the Islamic State (IS). The organization has documented, reported on and repeatedly condemned in the strongest terms the war crimes and acts amounting to crimes against humanity committed by the IS. However, Amnesty International has also expressed serious concerns about the violations against civilians committed by Iraqi security forces and government-backed Shi'a militias.<sup>1</sup>

For decades, Amnesty International has documented and taken action on a wide range of human rights violations in Iraq. The organization has raised these violations with successive Iraqi governments but they have failed to address them in any meaningful way. Indeed, security forces continue to detain individuals – in particular security suspects – in incommunicado detention that in many cases amounts to enforced disappearance. During detention, detainees have been subjected to torture and other ill-treatment, often at secret facilities controlled by the Interior and Defence ministries. Courts continue to convict and sentence defendants, including to death, largely on “confessions” extracted from them under torture and without any adequate investigations into their allegations. Judges and lawyers face intimidation from armed groups, with several of them killed every year. Freedom of expression and peaceful assembly remained curtailed with those critical of the authorities harassed, intimidated and prosecuted.

This climate of violations and a state of permanent impunity for abuses have significantly contributed to the current situation of discontent, sectarianism and instability in the country. This submission details a number of recommendations that the Iraqi authorities must implement in order to deliver justice and accountability for the people of Iraq.

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<sup>1</sup> See, for instance, Amnesty International, *Northern Iraq: Civilians in the Line of Fire*, 14 July 2014, Index number: MDE 14/007/2014, and Amnesty International, *Total Impunity: Militia Rule in Iraq*, 14 October 2014, Index number: MDE 14/015/2014, <https://www.amnesty.org/en/documents/mde14/015/2014/en/>

## **RESPECTING AND ENSURING RESPECT FOR COVENANT RIGHTS (ART.2)**

The Iraqi National High Commission for Human Rights (INHCHR), established in 2008, continues to face difficulties in carrying out its work. Following the appointment of 11 Commissioners, including civil society representatives, in April 2012, the INHCHR identified, a year later, 13 priority areas of work. Amnesty International welcomes the identification of these priority areas as a step towards enhancing human rights protection but regrets that they did not include any provisions for strengthening fair trial standards or safeguarding detainees from torture and other ill-treatment.<sup>2</sup> In addition, the law establishing the INHCHR (Law 53 of 2008) does not fully guarantee the Commission's independence and freedom from interference and control by the executive, nor does it provide adequate protection against the politicization of the position of the Commissioner.<sup>3</sup>

While the INHCHR is mandated to visit and inspect detention places as provided for under Article 5(5) of Law 53, it seems that it has faced restrictions in practice. Members of the INHCHR told Amnesty International in September 2014 that despite repeated requests to the authorities, they have so far not been allowed to visit detainees in interrogation and detention centres and prisons managed by the Ministries of the Interior, Justice or Defence,<sup>4</sup> and were only given permission to visit children detained in facilities managed by the Ministry of Labour and Social Affairs. Even then it is not clear what the outcome of their visits is. Members of the INHCHR carried out a joint visit with representatives of the Interior Ministry to the al-Rusafa women's prison in Baghdad on 23 May 2013 and reportedly made recommendations on-site.<sup>5</sup> No report or further information was published on the findings of the visit or the recommendations made to the prison authorities.

## **ARBITRARY ARRESTS AND DETENTION, ENFORCED DISAPPEARANCES (ARTS. 6, 7, 9 AND 14)**

Iraqi security forces continue to carry out arrests without judicial warrants and without informing those arrested or their families of the charges against them. The security authorities commonly hold suspects – and in particular, terrorism suspects – incommunicado

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<sup>2</sup> The 13 priority areas of the IHCHR are: Minority rights; Family and child rights; Relationships with national and international institutions and organizations; Social security; Health and environment; Immigration and displacement; Education; Rights of women; Missing persons; Freedom of expression; Rights of people with disabilities; Mass graves; Victims of terrorism. UNAMI, *Report on Human Rights January – June 2013*, August 2013, p. 23.

<sup>3</sup> Institute for International Law and Human Rights, *Iraq's High Commission for Human Rights: Bylaws, Regulations and Legal Framework*, June 2012, [http://lawandhumanrights.org/documents/ihchr\\_EN.pdf](http://lawandhumanrights.org/documents/ihchr_EN.pdf)

<sup>4</sup> Meeting on 8 September 2014 in Baghdad.

<sup>5</sup> UNAMI, *Report on Human Rights January – June 2013*, August 2013, Page 24.

for weeks and months following arrest and during the initial period of interrogation. The detainees are regularly held in secret facilities which are controlled by the Ministries of the Interior or Defence and which are not open to inspection by the Office of the Public Prosecution or any other official monitoring body. During this time, detainees are totally cut off from the outside world; they have no access to legal advice or to their families and no knowledge of how long they will be held in those conditions. In many cases, incommunicado detention has amounted to enforced disappearance, since no information on detainees' fate or whereabouts is provided to their families or lawyers. Amnesty International is aware of several cases where security officials have demanded money from detainees' families, either to reveal the detainees' locations or to release them after they had served their full sentence.

It is common for detainees to be held without charge or trial for weeks or months, and in some cases years. The majority of detainees held under the Anti-Terrorism Law are Sunni Iraqis arrested on suspicion of being members or supporters of Sunni armed groups fighting the government. In recent years, many detainees have been accused of being members, sympathizers, or supporters of the IS and previously of the al-Qaeda in Iraq, which later became the Islamic State of Iraq. Security forces have also subjected the wives and other female relatives of wanted suspects to arbitrary detention or threatened to arrest them.

In April 2014 an Iraqi website published a leaked 2013 letter from the Central Investigation Court to the Head of the Supreme Judicial Council, which revealed that authorities were continuing to carry out unlawful arrests of people named in a list of thousands of suspects that the Anti-terrorism General Directorate had sent to police stations in 2006 and 2007. The list contained names that were not always full or accurate. Amnesty International as well as Iraqi lawyers the organization spoke to believe that this led to the wrongful detention of many people.

In 2013, the then Deputy Prime Minister Hussein Al-Shahristani acknowledged that the authorities had continued to keep some untried detainees in detention despite court orders for their release and had also continued to hold other prisoners in detention after they had completed their prison sentences. In 2014, the authorities said they released more than 10 thousand detainees held without charge throughout the year. However, there were cases of others who have served their sentences but continued to be held. In what appears to have been an attempt to tackle this issue, a prime ministerial order issued in December 2014 required the release, within a maximum period of one month, of all those previously issued with release orders and reiterated the arrest and detention procedures to be followed by the security authorities.<sup>6</sup> The order also required the arrest and prosecution of anyone carrying out any arrest or detention outside the law.

Six brothers of the **Mahmoud Hameed al-'Akla**<sup>7</sup> family, aged between 28 and 54, were arrested between 2010 and 2014 and charged under Article 4 of the 2005 Anti-Terrorism Law. Following their arrest, their family had no information about their whereabouts for months. In 2014, they learnt through relatives of other prisoners

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<sup>6</sup> See Prime Minister Order 57 of 2014, available at <http://pmo.iq/press/2-12-20143.htm>, accessed 3 December 2014.

<sup>7</sup> The six brothers are: Abdel-Wehab Mahmoud Hameed, 44; Mekky Mahmoud Hameed, 40; and Weesam Mahmoud Hameed, 28; 'Ali Mahmoud Hameed, 42; Shakir Mahmoud Hameed, 54; and Sa'ad Mahmoud Hameed, 36.

that four were detained in al-Nasseriya Prison and one in al-Taji Prison. They believe the sixth one to be held in secret by army Liwa' Division 54 in al-Muthanna Airport. A relative of the men told Amnesty International that they have reported that they were tortured, including by being beaten and suspended in contorted positions, in order to force them to confess to killing individuals unknown to them. He also said that one of them, Weesam Hameed, was forced to sign a paper confessing to the killing of several of his relatives. They were on several occasions denied access to their relatives, legal counsel and some of them were also denied adequate medication. The family told Amnesty International that prison security officers had said the men would have to pay US\$2,000 each to be taken to court. In September 2015, Amnesty International learnt that all six brothers were acquitted in the case of killing 13 individuals by a court in al-Nasseriya. However three of them, Ali, Shakir and Abdel-Wehab, were nevertheless brought to a Central Criminal Court in Baghdad on similar charges and sentenced to death. According to their lawyer, no evidence has been brought against them and the families of the individuals that the brothers "confessed" to having killed have not submitted a complaint.

**Walid Yunis Ahmad** continues to be held by the Kurdistan Regional Government (KRG) authorities in Zirga prison, in Dohuk. He was due for release in March 2015 after serving a five-year prison sentence imposed on him in 2011, but as of September 2015 remained in detention. He was arrested in February 2000 and detained without charge or trial until 2010 when he was formally charged and later convicted by a by the Criminal Court in Dohuk for "sending orders and instructions from prison to his followers in Kirkuk and Mosul to carry out terrorist attacks in Dohuk in 2009". The prosecution stated that this charge was based on information said to have been provided by "secret informants" who were not identified and who did not appear in court to give evidence or to be questioned by Walid Yunis Ahmad's defence lawyer. The prosecution did not produce evidence of the letters that Walid Yunis Ahmad is said to have sent from prison. Following his arrest in 2000 Walid Yunis Ahmad disappeared until 2003, and said that during this period he was tortured and was kept in solitary confinement. He was then moved between prisons without explanation and only formally charged for the first time in 2010.

## TORTURE AND OTHER ILL-TREATMENT (ART. 7)

Torture is prohibited by Iraq's Constitution (Article 37, 1.c) and under Iraqi Law, notably Articles 218 and 127 of the Criminal Procedure Code, the latter of which states: "the use of any illegal method to influence the accused and extract an admission (confession) is not permitted." The Iraqi Penal Code does not define torture as such; however, Article 12(2d) of the Law of the High Criminal Court (Law 10 of 2005) states that "torture means deliberately causing severe pain and suffering, whether physically or mental, to a person in custody or under the control of the accused, and that torture does not include pain and suffering resulting from or related to legal sanctions and punishment."

According to the most recent official records disclosed by the Ministry of Human Rights in 2012, there were 237 cases of death in custody between 2008 and 2011, including 16 in which "suspicion of torture" was given as a possible cause of death and 14 cases in which no cause of death was indicated. The Iraqi central government delegation to the Universal Periodic Review of the UN Human Rights Council said that the authorities had investigated 516 torture reports between 2008 and 2014 with many resulting in prosecutions. However, the delegation provided no additional information as to the nature of the cases and which security bodies were responsible for these abuses.

Torture and other ill-treatment are widespread in practice in Iraq and in the Kurdistan Region



of Iraq (KRI) and often used to coerce “confessions” from detainees. Amnesty International continues to gather reports of torture and other ill-treatment by government forces, notably of Sunni men detained under Article 4 of the 2005 Anti-Terrorism Law, which covers acts such as provoking, planning, financing, committing or supporting others to commit terrorism.

In April 2015, Shireen Ridha, a member of the Iraqi parliamentary Human Rights Committee, stated that violations, including torture, forced confessions and prolonged pre-trial detention, continued in Iraqi prisons and detention centres, indicating that such abuses were continuing under the new government of Haider Al-Abadi.

Allegations of torture are seldom investigated and those responsible for torture or other ill-treatment of detainees are very rarely brought to justice. Although some cases of death in custody are reported to the authorities, in general no action is taken by the authorities to investigate such cases promptly, independently, impartially and effectively, including to establish whether or not the deaths were the result of torture and if so to bring those responsible to justice. Impunity therefore remains rife.

**Ibrahim** (real name with Amnesty International, withheld for reasons of security) was arrested in Mosul in March 2014 under the Anti-terrorism Law. He was held in Mosul for 26 days before being transferred to an interrogation centre in Baghdad Military Airport Ibrahim was not told at any point about the exact reasons or authorization for his arrest, did not see a judge or a lawyer and did not know the identity of the forces or agencies who were holding and interrogating him”. After his release on 29 August 2014, he told Amnesty International that he had been tortured in both detention centres. He said that officials repeatedly beat him with cables and sticks; subjected him to prolonged electric shocks, particularly on his genitals, after they had thrown water onto him to increase the impact of the shocks. He told researchers that he was threatened with rape with a stick and that virtually all the other detainees held with him were likewise tortured. The Central Criminal Court in Baghdad eventually ordered his release in May 2014 but he remained in detention for a further three months, during which time he said that he continued to be tortured on an almost daily basis.<sup>8</sup>

Deaths in custody apparently caused by torture also continue to be a persistent phenomenon in Iraq.

**Udai Taha Kurdi**, a 33-year-old lawyer and father of two children, was arrested on 10 June 2014 at Baghdad Central Court. Two weeks later, on 25 June, his family were informed that he had died. In a letter dated 24 July, addressed to the Iraqi Lawyers’ Union, the Iraqi Ministry of the Interior, apparently in response to lawyers’ questions about the case, stated that on 24 June Udai Taha Kurdi had suffered a “health problem” while in detention in the Anti-Terrorism General Directorate in Baghdad, and had been taken to Yarmouk Hospital on 25 June. It added that a judge had determined that Udai Taha Kurdi was “from the IS [Islamic State] leadership”, claimed that he was “from a terrorist family”, that his brother was in prison on terrorism-related charges, and that at his last hearing the judge had asked Udai Taha Kurdi if he had been tortured and he had responded that he had not. On 7 September 2014 a deputy leader of the Lawyers’ Union told Amnesty International that the Judicial Council (Majlis al-Qada’) had informed the Union that Udai Taha Kurdi had died of kidney failure and not as a result of torture as alleged in the Lawyers’ Union letter. However, photographs of Udai Taha Kurdi’s body obtained by Amnesty International and verified by an independent forensic expert, tell a different story. There are bruises, open wounds and burns on his body. According to his family Udai Taha

Kurdi was in perfectly good health prior to his detention.<sup>9</sup>

The authorities have taken no steps to investigate the use of unacknowledged and secret detention facilities by the Ministries of Interior or Defence or the use of torture and other ill-treatment of those detained in them, or to put an end to such abuses, bring those responsible to justice or ensure reparations to victims.

## **ADMINISTRATION OF JUSTICE AND DEATH PENALTY (ARTS. 6 AND 14)**

Serious concerns remain over the independence of the judiciary in both central Iraq and the KRI because of heavy interference from the executive and political affiliations.

Iraq's criminal justice system operates under especially difficult circumstances and remains largely inadequate and flawed. Armed groups continue to attack and kill judges, lawyers and court officials and to mount suicide and other lethal attacks on police and police recruits. According to official figures at least six judges were killed as a result of armed violence in 2014. Lawyers who defend terror suspects continue to be intimidated and threatened by security officers and physically attacked by unidentified militia men. They frequently receive anonymous threats communicated by phone or text message and some have been killed. Two lawyers defending terrorism suspects have recently told Amnesty International that they were arrested by the security forces on several occasions and interrogated about their clients and the reasons for defending them.

In this context, the administration of justice in Iraq continues to suffer from major deficiencies, particularly in the application of anti-terrorism legislation and the conduct of trials involving alleged terrorism or other security offences.

Amnesty International has over many years documented serious violations of the fair trial and other provisions of the Covenant during judicial proceedings. Courts in terrorism cases often base their guilty verdicts on "confessions" obtained under torture. In some trials testimonies given by secret informants are the only evidence presented by the prosecution. The authorities have also allowed over the years the broadcast of "confessions" of terrorism suspects on television. There have been cases where public officials have pronounced individuals guilty before they were even tried, in violation of the right to be presumed innocent until proven guilty. In a number of such cases, the defendants were subsequently sentenced to death, and later executed.

In July 2015, the Central Criminal Court of Iraq in Baghdad sentenced to death by hanging 24 men under Article 4 of the 2005 Anti-Terrorism Law after convicting them of killing at least 1,700 military cadets from the "Speicher" Military Camp (officially known as Tikrit Air Academy), near Tikrit in Salahuddin governorate, on 12

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<sup>9</sup> For more information, see Amnesty International's report, *Absolute Impunity: Militia Rule in Iraq*, 14 October 2014, Index: MDE 14/015/2014, p. 19, available at: <https://www.amnesty.org/en/documents/mde14/015/2014/en/>

June 2014.<sup>10</sup> Four other men were acquitted for lack of evidence. The trial lasted only a few hours and relied mainly on “confessions” obtained from the defendants during interrogation and video footage of the massacre previously circulated by the IS. According to reports from the court room, all the defendants denied involvement in the killings and said their “confessions” were extracted from them under torture, while some denied being in the Tikrit area at the time of the massacre. The speed with which the verdict was reached and the lack of any investigations into the defendants’ torture allegations casts serious doubt on the fairness of the trial. None of the defendants had a legal counsel of their own choosing and they were instead represented by court-appointed lawyers. According to media reports, the lawyers requested leniency for their clients but did not dispute the evidence or the admissibility of “confessions”. They did not meet with the defendants ahead of the trial. Amnesty International was told by Iraqi human rights lawyers that because of the extreme sensitivity of the Speicher massacre and fears of possible reprisals, no lawyers had volunteered to represent the defendants.

Iraq, today, is one of the world's leading executioners as the government continues to battle against a high level of violence by armed groups. The majority of those sentenced to death in Iraq have been Sunni men convicted of violent crimes under the 2005 Anti-Terrorism Law, including politically-motivated and sectarian bomb and other lethal attacks that have killed and injured civilians. Many, however, were sentenced, and in some cases executed, after trials that, due to their unfairness, undermined rather than upheld justice.

On 16 June 2015, amidst political pressure – particularly from Parliament – over a backlog of death penalty cases awaiting Presidential review, the Iraqi Cabinet approved an amendment to the Code of Criminal Procedures granting the Minister of Justice the power to ratify executions whenever the president does not ratify, pardon, issue clemency, or commute final death sentences within 30 days. In July President Fuad Ma’sum ratified at least 21 death penalties out of some 662 sentences.

Amnesty International condemns any executions in Iraq. In addition, it is a matter of serious concerns that among the death sentences President Ma’sum has ratified there may be individuals who were convicted based on “confessions” obtained under torture, including cases where the defendants later retracted such ‘confessions’ in court. Televised “confessions” have also been admitted as evidence against defendants, as well as information obtained through secret informants. Such practices display total disregard for international fair trial guarantees, including under the Covenant.

**Ahmad ‘Amr ‘Abd al-Qadir Muhammad**, a Palestinian born in Iraq, now aged 33, is on death row in al-Nasseriya Prison. He was sentenced to death in May 2011 after “confessing” to being a member of an armed group and to being involved in causing several bomb explosions in Baghdad. No evidence linking him to the explosions was presented to the court. In court, he retracted his “confession” and said he was tortured when held incommunicado for a year, after his arrest in July 2006. However, the court ruled that the “confession” was reliable because it had been made at a date much closer to the time of the crime than his testimony before the court. No independent or impartial investigation is known to have been carried out into his allegations of torture. This year he has told his family that he continued to be beaten and denied medical care. When his mother visited him on 18 June 2015, she saw that his hands and feet were swollen and his back bleeding.

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<sup>10</sup> The cadets were mostly Shi’a who were captured by IS fighters in June 2014 and were shown in videos by the IS being led in trucks and summarily executed.

**Mu'ad Muhammad 'Abed**, a primary school teacher, now aged 37, was sentenced to death on 3 December 2012 together with three other men, Nabhan 'Adel Hamdi, Shakir Mahmoud 'Anad and Amer Ahmad Kassar. The men had been arrested between March and April 2012. They were all held incommunicado for several weeks at the Directorate of Counter-Crime in Ramadi, al-Anbar Province. Shortly after their arrest, the television station *al-Anbar* broadcast the four men making self-incriminating statements linking them to involvement in terrorism-related offences and membership in an illegal armed group. At trial the men told the court they had been tortured to “confess”; a medical examination ordered by the lawyer of one of the men identified injuries consistent with his torture claims. No official investigation into the alleged torture is known to have been carried out. Their case is still pending review by the Court of Cassation. If their sentence is upheld, it will be sent to the presidency for ratification, putting them at imminent risk of execution. Mu'ad Muhammad 'Abed told his family when they visited him two months ago in Nassiriya prison that he was being ill-treated, prevented from praying and denied access to radio and television by the prison guards.

On 12 August 2015, **Farhad Jaafar Mahmood**, and his two wives, **Berivan Haider Karim** and **Khuncha Hassan Ismaeil**, were hanged after a court in the city of Dohuk sentenced them to death in April 2014 for the abduction and murder of two school girls in 2011 and 2012. The executions were the first to be carried out since 2008, ending a seven-year hiatus on executions in the Kurdistan Region of Iraq (KRI). The resumption of executions in the KRI casts doubt on the future of a draft law, which proposed abolishing the death penalty, that the Human Rights Committee of the Kurdistan Parliament prepared and submitted to Parliament in 2011.

## FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY (ARTS. 19 AND 21)

Journalists continue to work in extremely hazardous conditions and face threats from both state and non-state actors. Some have been victims of targeted killings or assassination attempts; others have been physically assaulted. In June 2014 the government-controlled Communications and Media Commission issued “mandatory” guidelines regulating media activities “during the war on terror”, demanding that media outlets not make public information about insurgent forces, and requiring them to not criticize government forces and to report on government forces only in favourable terms. On the other hand, the Iraqi Prime Minister, Haidar al-Abadi, ordered in December 2014 that all lawsuits filed by his office against journalists in the past to be dropped.

In March 2014, Mohammad Bdaiwi al-Shammari, a university professor and the Baghdad Bureau Chief for Radio Free Iraq, was shot dead at a check-point in Baghdad by a Presidential Guards officer during an argument over access to the presidential complex. In August 2014, a court sentenced the officer to life imprisonment.

Several journalists were forced to flee their homes in Basra in July 2015 after receiving death threats from unidentified men because of their work, including in covering the demonstrations against corruption in July and August 2015.

Freedom of expression remains heavily restricted in the Kurdistan Region of Iraq and those who criticized leading political parties are targeted for arrest, prosecution and imprisonment.

KRG authorities continued to detain journalist **Niaz Aziz Saleh**, who was arrested in January 2012 for allegedly disclosing details of election rigging. He was held without charge or trial with the General Security (Asayish

Gishti) in Erbil refusing repeatedly to take him to court to stand trial. In December 2014, after 26 court dates had passed by, he was finally brought to court and sentenced to two years in prison. At the same session, the court ordered his release as he had already served his sentence. However, instead of being released, Niaz Aziz Saleh was taken by Asayish Gishti and his lawyer told he was being detained because of new charges against him.

Prime Minister Abadi introduced a package of reforms following weeks of popular demonstrations in July and August 2015 in Baghdad and other cities protesting endemic corruption and poor public services. While most of the protests took place without major incidents, Iraqi activists and others Amnesty International spoke to, have reported that the security forces used unnecessary and excessive force in Dhi Qar and Babel. In Baghdad, a number of prominent activists were beaten by unidentified men and at least 18 were arrested. Protesters were also beaten in Basra and had their phones and other belongings taken from them by unidentified men. At least one person was killed in Basra and seven others injured when security forces fired shots in the air to disperse protesters.

## RECOMMENDATIONS

**Amnesty International recommends that the Iraqi authorities:**

### **STOP TORTURE AND OTHER ILL-TREATMENT**

- Rigorously enforce the prohibition of torture as stipulated in the Convention against Torture as well as in Iraq's laws;
- Rigorously enforce the prohibition on the admissibility of all "confessions" and other statements obtained by torture and other acts of ill-treatment in all proceedings, except as evidence against a person accused of such acts that the statement was made;
- Instruct all members of the police, army and other security forces that it is a crime to subject any individual to enforced disappearance or to torture, or to otherwise ill-treat detainees or other people under their control, and that any officials who participate in such crimes will be held fully accountable and will be liable to prosecution and punishment;
- Prohibit the use of incommunicado detention and guarantee, in both law and practice, the right of detainees to prompt access to an independent court and legal counsel of their own choosing and to prompt and regular contact with, including visits from, their families;
- Investigate allegations of torture and other ill-treatment promptly, impartially, independently and effectively, and authorise those carrying out such investigations to question officials under oath and to have access to all places, including places of detention, as well as official records that they consider relevant to their investigation.

### **GUARANTEE DUE PROCESS AND THE RIGHT OF FAIR TRIAL IN PRACTICE AS WELL AS IN LAW**

- Release all detainees unless they are charged with a recognizably criminal offence and brought to trial within a reasonable time and in full accordance with international standards of fair trial, and without recourse to the death penalty.
- Instruct the police and security forces that all arrests must be carried out in strict

conformity with the law, including on the basis of judicial arrest warrants where these are legally required, and that any failure on their part to comply with these requirements will result in their being held criminally liable and possibly imprisoned and/or dismissed.

- Implement in all cases the requirement that an arrested person be brought promptly before a judge, or other officer authorized by law to exercise judicial power, in order to determine the lawfulness of their detention and its duration, and to order the detainee's release if the detention is unlawful.
- Observe in practice the detainee's right to have a lawyer who represents him or her present on each occasion when he or she is questioned and for the duration of the questioning.
- Take steps to ensure that all detainees are informed at the time of arrest of the reason for their arrest and detention, and are informed promptly of any charges against them and of their right to access legal counsel of their own choosing.
- Immediately inform all detainees of their rights, including their right to lodge complaints and their rights of access to legal counsel and contact with their families.
- Instruct the police and other security forces that it is illegal to employ methods of coercion, including threats, to induce detainees to make statements incriminating themselves or others in the commission of crimes, and that those who breach the law in this way will be held criminally liable and may face prosecution and dismissal.
- Prohibit television broadcasts or other publication of detainees' real or alleged confessions in advance of or during their trials or the publication of other information which undermines the presumption of innocence and the right of all accused persons to receive a fair trial within a reasonable time.
- Invite the Chief Justice of Iraq to formally remind all members of the judiciary that trial courts must not admit as evidence any alleged confessions or other incriminatory information or statements made in pre-trial custody without first assuring themselves that such information was given freely and without coercion; any such statements or other information that fails this test must be rejected by the courts.
- Establish an independent body composed of suitably qualified legal and other experts to review all cases in which defendants were convicted solely or partially on the basis of pre-trial confessions that they alleged were coerced or obtained through torture or other ill-treatment, and to make recommendations regarding release or re-trial in all cases where it is determined that courts failed objectively to satisfy themselves that such confessions were freely given and not coerced.

#### CEASE EXECUTIONS AND ABOLISH THE DEATH PENALTY

- Immediately impose a moratorium on all executions, in accordance with repeated calls by the UN General Assembly, as a first step towards the total abolition of the death penalty.
- Commute all current death sentences to terms of imprisonment.
- Immediately remove the death penalty from legislation for all but the most serious

crimes, as stipulated in Article 6(2) ICCPR, and understood to be limited to crimes involving intentional killing, and, pending abolition, respect all international standards applying to the use of the death penalty.

- Pending full abolition, respect all international standards applying to the use of the death penalty, including the duty to ensure that trials carrying the death must comply with the most rigorous internationally recognized standards for fair trial.
- Take steps to eliminate the death penalty from Iraqi legislation.

#### RESPECT AND PROTECT FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

- Guarantee and uphold the right to peaceful protest, and protect protesters from excessive force by police or violence by others.
- Conduct full, thorough and transparent investigations into the killings of and attacks on protesters and the assaults and threats made against journalists and others, make the results of the investigation public and bring perpetrators to justice.
- Ensure that journalists are able to work in a climate free from fear and that they are protected from violence, harassment and intimidation and investigate seriously threats against their safety and bring those responsible to justice.

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