URGENT ACTION

CONFESSES UNDER TORTURE, FACING EXECUTION

Khaled Khalifa Mahmud, a 36-year-old Iraqi man who was sentenced to death in October 2009 after an unfair trial, is at imminent risk of execution in Iraq. His contested "confession", allegedly obtained under torture, was admitted as evidence against him. His conviction was upheld by the Court of Cassation in 2010.

Khaled Khalifa Mahmud, married with two children, is on death row at the Maximum Security Prison (*al-Himaya al-Quswa*) at Camp Justice (*Mu'askar al-'Adala*) in the Iraqi capital, Baghdad. Executions are often carried out at very short notice in Iraq and he is at imminent risk.

Khaled Khalifa Mahmud was arrested on 29 December 2006 by the US-led Multinational Force (MNF) at his home in the town of al-Saqlawiya, north-west of Fallujah in al-Anbar governorate. On 15 November 2008 the MNF transferred him to a police station in al-Habbaniya town, about 15 km west of Fallujah, with a view to releasing him, but he was immediately rearrested by the Iraqi security forces. They took him to the police station of al-Saqlawiya where he was held for 24 days and was reportedly tortured to make him "confess". His case was referred to the Criminal Court of al-Anbar on 25 June 2009, which sentenced him to death four months later under the 2005 Anti-Terrorism Law. He was convicted of involvement in an armed attack on the house of a man who was killed during the incident. The court noted that he had later withdrawn his "confession" but nevertheless accepted it as evidence against him and sentenced him to death. The Court of Cassation upheld the death sentence on 28 September 2010.

Khaled Khalifa Mahmud filed a complaint with the Iraqi authorities on 14 March 2012. In the letter, seen by Amnesty International, he describes his torture and other ill-treatment, including the use of electric shocks to his body, by his interrogators.

Please write immediately in Arabic, English or your own language:

- Calling on the authorities to stop the execution of Khaled Khalifa Mahmud, by whatever judicial or other means available;
- Expressing concern that he did not receive a fair trial and calling for him to be retried in line with the most rigorous internationally recognized standards for fair trial;
- Calling on them to order his allegations of torture and other ill-treatment to be investigated promptly and thoroughly by an independent body, and bring those responsible to justice;
- Urging them to declare an official moratorium on executions with a view to abolishing the death penalty, and to commute all outstanding death sentences without delay.

PLEASE SEND APPEALS BEFORE 15 JANUARY 2014 TO:

Prime Minister
His Excellency Nuri Kamil al-Maliki,
Convention Centre (Qasr al-Ma'aridh)
Baghdad, Iraq
Salutation: Your Excellency

Minister of Justice
Hassan al-Shammari
Ministry of Justice
Baghdad, Iraq
Contactable in Arabic via website:
http://www.moj.gov.iq/complaints.php
Salutation: Your Excellency

And copies to:
Minister of Human Rights
His Excellency Mohammad Shayaa al-Sudani
Ministry of Human Rights
Baghdad, Iraq
Email: shakawa@humanrights.gov.iq
minister1@humanrights.gov.iq

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date.

AMNESTY INTERNATIONAL

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ADDITIONAL INFORMATION

Iraq is one of the world's most prolific executioners, as the government confronts a high level of violence by armed groups. Hundreds of prisoners are on death row. In 2012 at least 129 people were executed in Iraq, almost twice the known total for 2011, making it the country with the highest number of executions in the world after China and Iran. So far during 2013 at least 155 people have been executed in Iraq – the highest number since the country reintroduced capital punishment in August 2004 after it had been suspended for nearly 18 months by the Coalition Provisional Authority. However, the true number could be higher and the Iraqi authorities have yet to publish full figures.

Although full details are not available, the vast majority of death sentences in recent years are believed to have been imposed under the Anti-Terrorism Law, Law 13 of 2005. The law covers, in vague terms, acts such as provoking, planning, financing, committing or supporting others to commit terrorism. Death sentences are often handed down after grossly unfair trials, where prisoners do not have access to proper legal representation and "confessions" to crimes are frequently extracted through torture or other ill-treatment.

In recent statements announcing the execution of 23 prisoners in September and 42 in October, the Iraqi Ministry of Justice misleadingly stated that all death sentences were reviewed and confirmed by the Court of Cassation before executions took place. However, the Court of Cassation regularly fails to address the admission by trial courts of contested evidence, including withdrawn “confessions” and allegations of coercion and torture, when approving death sentences at the review stage. The generally paper-based procedure fails to give defendants a genuine review. Under international law, the right to have a conviction and sentence reviewed by a higher tribunal (Article 14(5) of the International Covenant on Civil and Political Rights (ICCPR) requires a full evaluation of evidence and conduct of the first trial. The right to be present during an appeal is even more important in capital cases, where fair trial safeguards must be at least equal to those of ICCPR Article 14 (Safeguard 5 of Economic and Social Council (ECOSOC) resolution 1984/50). Once a death sentence has been confirmed by the Court of Cassation, Article 286 of the Criminal Procedure Code requires that it is sent to the Presidency to decide whether it should be ratified and the offender executed, commuted to a lesser sentence, or the offender pardoned.

In March 2013 Amnesty International documented 90 cases of death row inmates in Iraq, including Ahmad ‘Amr ‘Abd al-Qadir Muhammad, who had been convicted of terrorism or other crimes on the basis of “confessions” in which they incriminated themselves and which they said had been obtained under torture while they were held incommunicado. For further information see Amnesty International report *Iraq: A decade of Abuse* (http://www.amnesty.org/en/library/info/MDE14/001/2013/en); and Amnesty International’s video *Iraq's lethal confession culture*, at http://www.youtube.com/watch?v=kCfEnbDKp2I. At least 14 of the 90 prisoners listed in the report have already been executed in 2013.

The UN Assistance Mission for Iraq (UNAMI), the UN High Commissioner for Human Rights and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions have made repeated calls for the establishment of a moratorium on the death penalty in Iraq. The UN High Commissioner for Human Rights stated in reaction to the execution of 21 prisoners on the same day in April 2013: “Executing people in batches like this is obscene. It is like processing animals in a slaughterhouse. The criminal justice system in Iraq is still not functioning adequately, with numerous convictions based on confessions obtained under torture and ill-treatment, a weak judiciary and trial proceedings that fall short of international standards. The application of the death penalty in these circumstances is unconscionable, as any miscarriage of justice as a result of capital punishment cannot be undone.”

Name: Khaled Khalifa Mahmud
Gender m/f: m

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