



UPR submission on human rights in Iraq

by

Monitoring Net of Human Rights in Iraq (MHRI)

www.mhrinet.splinder.com

And the

**Conservation Centre of Environmental & Reserves
(CCERF)**

7th Session of the Human Rights Council

Executive Summary

While we are writing this report (August 2009), the situation of the human rights in Iraq is deteriorating to its worst level. The many reports which pointed out to the amelioration of the security situation are not anymore accurate. Indeed, the latest Special Inspector General for Iraq Reconstruction (SIGIR) quarterly report to the U.S Congress indicates a tremendous increase in the average death rate of Iraqis killed per day raising from 14,5 killed **per day** in April to 21,2 killed per day in July¹. This is one indication of many others that shows the total failure of this government.

The absence of the rule of law is one of the main causes of this total failure. It indicates that the current Iraqi administration is not able to meet the standard requirements of any state. Even the US administration which share the greatest responsibility in the catastrophic situation of the human rights in Iraq admitted recently that the human rights were more than often not respected pointing out to a series of problems such as a “climate of violence; misappropriation of official authority by sectarian, criminal, and extremist groups; arbitrary deprivation of life; disappearances; torture and other cruel, inhuman, or degrading treatment or punishment; impunity; poor conditions in pretrial detention and prison facilities; denial of fair public trials; immature judicial institutions lacking capacity; arbitrary arrest and detention; arbitrary interference with privacy and home; other abuses in internal conflicts; limitations on freedoms of speech, press, assembly, and association due to sectarianism and extremist threats and violence; restrictions on religious freedom; restrictions on freedom of movement; large numbers of internally displaced persons (IDPs) and refugees; lack of protection of refugees and stateless persons; lack of transparency and widespread, severe corruption at all levels of government; constraints on international organizations and nongovernmental organizations' (NGOs) investigations of alleged violations of human rights; discrimination against and societal abuses of women, and ethnic and religious minorities; human trafficking; societal discrimination and violence against individuals based on sexual orientation; and limited exercise of labor rights.”²

Basic living condition

The current Iraqi government has been in power since 2007, but it has failed to restore security as well as failing to restore the very basic needs of the population. It failed in showing a real respect of the main principles of human rights as stipulated in the Universal Declaration of Human Rights and other human rights instruments. While members of the government and their families are living in luxurious condition in Europe, the Iraqi people are in dire need of basic life essentials to stay alive.

In a very recent statement (**19 August 2009**) the UN through the Humanitarian and Resident Coordinator for Iraq Dr. Naema Al-Gasseer stated that “In the first seven months of 2009, 1,809 civilians were killed due to continuing violence, while millions lack access to basic services and **23% live on less than US\$2.20 per day**”³. She added that ” In Iraq’s most vulnerable communities, **73% of the local population is not using safe drinking water**. DR. Al-Gasseer also said, “Around **3 million children are chronically malnourished and only**

40% of all children completing primary school continue on to secondary school. In 2009, there were over 27,000 cases of measles reported by the end of May 2009, **more than 100 times the number of cases in 2007.** Women's mortality rates are of particular concern; Iraq reports 84 per 100,000 live births compared with 41 and 65 in Jordan and Syria respectively".

According to Dr. Al-Gasseer "There are currently 2.9 million internally displaced persons (IDPs) in Iraq and 1.7 million Iraqi refugees living in neighbouring countries. The return and resettlement of displaced Iraqis remain critical to Iraq's recovery. Despite significant returns, 340,000 to date, conditions for the voluntary, safe and dignified return of all IDPs and refugees are not yet fully in place".

Rule of law

While the Prime Minister Nouri al-Maliki slogan for the latest January provincial elections was to apply the rule of law in Iraq, the country has in contrary never been through such an absence of the rule of the law. **The high level of corruption** which has spread to the highest spheres of the government. According to Transparency International, **Iraq is one of the most corrupted countries of the world** especially in the public officials and civil servant sectors. Between 23% and 49% of the respondents to the enquiry conducted by this organization declared that they have paid a bribe in the last 12 months.⁴ The corruption particularly affects the administration because a lot of individuals who came with the U.S troops of occupation provided fake diplomas in order to get high-qualified jobs.

A recent enquiry pointed out to the fact that about 4'000 people have forged post-graduate degrees.⁵ While the prime minister is always putting the responsibility of the corruption in Iraq on the former regime, many reports have in contrary established that the country has never known such a high level of corruption. The Special General Inspector for Iraq's Reconstruction himself implicitly admitted that the fight against corruption enacted by the Prime Minister was merely rhetorical and that no true actions have been taken to enforce the rule of law.⁶ For example, Article 136 of the Integrity Committee law no 55, which is supposed to investigate the financial records of all the ministries, gives in fact a near veto power to any minister willing to oppose a corruption investigation.

The highest officials in Iraq are doing their utmost efforts to forbid any enquiry which could lift the veil on their activities. The Iraqi government is systematically dismissing oversight officials, who were installed to fight corruption in Iraqi ministries. One Iraqi former chief investigator recently testified before the US Congress that \$13 billion in reconstruction funds from the United States had been lost to fraud, embezzlement, theft and waste by Iraqi government officials. **The special inspectors in charge of corruption are slowly dismissed one after the other by the prime minister.** The real attitude of the Prime Minister Nouri Al-Maliki regarding the fighting against corruption has been most vividly illustrated by his long-running feud with Judge Radhi al-Radhi, the former head of the Commission on Public Integrity, an oversight agency created by the Coalition Provisional Authority. After Mr. Radhi's corruption investigations repeatedly embarrassed the Maliki government, the prime minister's office supported corruption charges against Mr. Radhi himself. Mr. Radhi's backers considered the charges to be trumped-up. Ultimately, Mr. Radhi was forced out and fled Iraq in the summer of 2007, saying he had received numerous threats to his life. He was accordingly granted asylum in the United States.⁷

Actually, the list of the scandal related to corruption is endless. One of the biggest scandals in the past few years is the widespread corruption that affected the Public Distribution System (PDS) which was under the responsibility of the Ministry of Trade led by Abdul-Falah Al-Soudany, a member of the Prime Minister party, al-Dawa. Iraqi people have been the first victims of this corruption as they saw their food rations severely diminished and they began to receive expired food by the PDS. It was only after mass public outcry that the Prime Minister accepted the resignation of his Trade Minister and ordered his arrest at the end of May 2009.⁸ However, days later, the *Minister* appeared in the United Kingdom of which he holds a second nationality.

More recently, a criminal group closely related to one of the most influential political parties in Iraq, the Supreme Islamic Iraqi Council, committed a criminal attack against the Zawiya Bank stealing more than 8 billion dinars and killing 8 policemen. Dressed as the Iraqi Security Forces, the assailants attacked the Bank on the 29th of July 2009. This attack aimed at gathering money to buy the voices of the electors in order to ensure the maximum seats for this party in the next election. The criminal were hiding in a newspaper belongs to the Vice president, Adel Abdel Mahdi. The name of the newspaper is (Al-Adala), which means “justice”! When the police arrested 4 of the 8 members of the group, it appears that their leader, Jafaar Lazim, was a Captain working in the special Security Forces attached to the Presidential Office closely working with the vice president Adil Abdul Mahdai. The behavior of the Prime Minister who tried to cover this grave incident indicates that there is no real intention to establish the rule of law in the country.

The second factor that is preventing the rule of law being adopted in Iraq is the parallel power that is detained by the militias and armed groups. These groups have infiltrated to all levels of the government to such an extent that Iraq’s government is run by militia instead of being a national government as the recent event of the Zawiya Bank has demonstrated. Each political party has its own private army. The biggest party, the Supreme Iraqi Islamic Council has its own militia named Badr Brigade formed and trained by Iran. Several clashes between the different militias were reported as well as between militias and Iraqi Security Forces. Often, the militias use the dress code of the Iraqi Security Forces to perpetrate their crimes - Iraqi Security Force vehicles are also used. The use of Security Force vehicles indicates that these criminal and unlawful armed groups are deeply infiltrated in the Iraqi Security Forces as they are able to easily use its uniforms and vehicles.

The third factor stopping any application of the rule of law is the absence of accountability of the governmental agencies. Although there are mechanisms to fight the corruption and to open the way to a greater transparency of the State’s activity, such as the Commission on Public Integrity, none of these mechanism are working. The government is making all its efforts in order prevent a real fight against corruption in its organs.

Justice-lack of fair trials

The immediate consequence of both the total collapse of the Iraqi State and the high level of corruption is the fall of the Iraqi Judicial System which is failing to meet international standards of due process and fair trials. In addition, the factional political parties and the state’s infiltrated militias are precluding any administration of a fair justice. **No independent justice system exists in Iraq today and any attempt to obtain justice could severely**

threaten the security of the complainants. The conduct of the Justice is also severely hampered by the looting of all the Courts and their destruction in some cases during the war waged against Iraq in 2003. These lootings and destructions led to a chaotic situation which still prevails today.

Regarding **the treatment of the detainees**, Although Iraq has ratified in 1971 the International Covenant on Civil and Political Rights (ICCPR), which requires that all persons arrested be promptly brought before a judge, informed of criminal charges, have access to legal counsel and family members, and receive a trial meeting international fair trial standards, we notice that none of these obligations are respected by the new Iraqi Government. The list of abuses regarding these grave infringements is endless. While defense attorneys should in theory be provided, detainees have in fact rarely have access to them during their initial hearing. Several UN agencies and NGO's have reported that the rights of detainees in Iraq are grossly violated⁹. Many reports underline that detainees would meet their lawyers for the first time during the trial, but many are deprived, in a way or another, from having a lawyer. In addition, the fate of those detainees at the time of the trial or on appeal to the Court of Cassation is often decided by corruption or intimidation. Thus it is impossible for anybody facing charges against them to have access to a fair trial.

In most cases, the detainees are brought before the judges months or even years after their arrest. The procedures which are clearly defined in the Iraq Criminal Procedure Code are never followed by the judiciary instances. No forensic evidence is presented during the hearing leading to an increasing use of interrogations and secret informant. In some trials related to National Security, the charges relied exclusively on the information reported by anonymous and secret informant. As everything in Iraq is now guided by corruption, we express strong doubts about the value of the information obtained by the use of these methods. While the Iraqi Constitution as well as the Iraq Criminal Procedure Code bans the use of any illegal methods to influence the accused and extract a confession, the reported cases of mistreatment and of harsh methods of interrogation including the use of torture is now common in Iraq. The right of defense is almost totally absent from the Iraqi Criminal Courts as in many cases most of the detainees met their lawyers for the first time during the initial hearing. It is clear that not enough time is given to prepare for an adequate defense.

In another violation to the independence of the judiciary system, the government in Iraq has **created new special courts or tribunals** to try a certain number of people from a certain period of time. In several official statements, the UN Special Rapporteur on the Independence of Judges and Lawyers, states his strong objections regarding the conduct of these courts. According to the Special Rapporteur, these trials have violated international standards on due process and violated human rights standards and principles, in particular the right to be tried by an independent and impartial tribunal and the right to adequate defense as stipulated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

These Courts continue to violate international standards on due process and violate human rights standards and principles (August, 2009), in particular the right to be tried by an independent and impartial tribunal and the right to adequate defense as stipulated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Women and children situation

The situation of the Iraqi women has become very difficult for many reasons. The IRCs estimated that about 83% of the IDP were women and children who's the current Iraqi government have failed to provide them with any help or protection. Women are reduced to struggle to meet their families basic needs and thus have little participation to the public sphere although they constitute half of the Iraqi population. The illiteracy rate is twice as high among Iraqi women compared to that of men. (24% compared with 11%). The disparity in illiteracy rates between women and men are as high among younger people as among older people. 1 in 10 Iraqi households are headed by women, more than 80% of whom are widows.

There has been a flagrant violation to women' right to work. Only 18% of women participate in the working power, compared to 81% of men. This is a low figure compared to other countries in the region. Women with lower educational levels are more likely to be outside the labour force. While in the 1980s, Iraqi women comprised 46% of all teachers, 29% of doctors, 46% of dentists, 70% of pharmacists, 15% of factory workers and 16% of civil servants.¹⁰

The new Iraq has stolen their rights to **education**, as well as, to work and to live in peace and security. Today, Iraqi women are busy surviving day to day. They are busy finding fuel to cook for their children, they are busy providing potable water for their children, they are busy finding a way to earn a living to feed their children, and they are busy finding affordable health service for their sick children.

The growing number of widows in the country is devastating. In 2007, The *Ministry of Women's Affairs* says that there are at least three hundred thousand widows in Baghdad alone, and a further one million throughout the country and the numbers are rising. Most widows are left to take care of 4 to 5 children; with no income these women and their children have little hope of a prosperous future. Despite the high income to the government due to the increase in oil price, it didn't even provide the basic needs for those widows. Several times, representatives of the current government stated before the Human Rights Council that the government is providing full assistance to all Iraqi widows, while the reality is exactly the opposite. This is a clear violation to a fundamental governmental duty.

There is however thousands of women who have husbands that are not dead, but are detained in governmental or US detention centres. Women not only have the additional burden of tracking their husbands down but the absence of their partners also means the absence of income coming into the household, leaving women to be the sole providers for the family. The number of Iraqis that have been detained is unknown but estimates range from thirty to one hundred thousand.

Abuses, rape and torture of Iraqi women are now a regular occurrence in the '*New Iraq*' and have been reported by several independent Iraqi organisations and Iraqi governmental officials. More recently, on the 25th of January 2009, the Minister of Women Affairs, Nawal al-Samarrai, said women prisoners were routinely beaten, abused and in some cases raped in both US and Iraqi prisons. The Iraqi government took, so far, no action to hold the criminal accountable.

Many women detainees have disappeared after being arrested by Iraqi and US forces and since their families do not report the cases it is difficult to give the exact figure of women detainees. Minister al- Samarrai said also that political parties and militias hold sway over the courts and judges. The result of both is that prisoners often remain in prison indefinitely.

Numerous human rights organizations have also reported the presences of female detainees in many prisons throughout Iraq.¹¹ However, to date there remains great uncertainty about the number of female detainees in Iraq. But, according to *the United Prisoners of Iraq* - an Iraq NGO “*There are more than 10,000 women detainees in places that are not even fit for animals in Kadmeya and secret camps for women and children in Muthena Airport in Baghdad, and Muaskar Sheekhan for women in Muosel in addition to other women detainees who are in the south of Iraq.*”¹²

While the religion has always been a private matter in the past, we have noticed an intrusion of it in all aspects of the life of Iraqi women. Prior to the war, several experts pointed out to the danger that overthrowing the secular regime of Saddam Hussein will lead to the apparition of a religious regime and this is, unfortunately, exactly what’s happened in Iraq.

Today, the Iraqi government is led by two Islamist forces, the Daawa Party and the Islamic Supreme Council of Iraq, that deny any rights to Iraqi women’s and want them to stay at home veiled and uneducated while they can continue to spread sectarian violence in the streets of the Iraqi towns.

Women NGO, speaks about a new Taliban regime wanting to control the lives of women in Iraq.¹³ That is clearly shows the level of violation of women rights by the government. Indeed, an analysis of the current Iraqi constitution shows that the rights of the women are not safeguarded but that they are encountering a real danger. Art. 39 open the way to a complete inequality between the Iraqi citizen as it calls for marriage, divorce, alimony, inheritance, and other personal status issues to be adjudicated by religious courts.

Another serious difficulty facing the Iraqi women is that they are exposed to a high level of violence, to mistreatment, abuse, and pressure. The militia affiliated to the governmental parties took control of most of the cities, imposing the veils on women, killing and torturing women and attacking the Christian minority in the north for being different. The government is doing nothing to protect women from the attacks of this militia, on the contrary most of the high ranking official in this government are encouraging the militias to continue this criminal path.

The list of women raped and tortured by the militias and the Iraqi governmental forces is endless. Iraqi sources have reported that there are still Iraqi men and women that are being raped and tortured by Iraqi forces. Sources have reported that at present there are a number of detained Iraqi women who were raped and made pregnant by the officers in the detention centre. There are also recent reports and testimonies of detainees that have been tortured in Iraqi run prisons in Tikrit, including one particular prison where there are 28 women detainees.¹⁴

Sabrine Al-Janabi, living in Hai Al-Amil in Baghdad is one of thousands shocking cases of violence against women which are now taking place on a regular basis in Iraq. This poor innocent girl has been abducted from her house and brutally gang-raped by the Iraqi Forces who threatened to kill her if she told anyone about the rape. Another dark side of the Iraqi women conditions is the increasing of the “honor killing” especially in the northern region of Kurdistan were a high number of case were reported. In this region more than 86% of the respondents to a survey done by the NGO *Women for Women International* said girls in their families were forbidden from attending school.

The wide spread torture and summary executions

Since 2004, the Iraqi authorities have been relying on extreme abuse and torture in facilities under their control in order to get confession from detainees. Torture technique includes burning flesh, sexual assault, and the use of electrical shocks on delicate body tissue. More often bodies of dead detainees were found in the open area with sign of severe torturer.

As from 2005, a huge increase in this phenomena happened after PM Ibrahim Al-Ja'fari assumed power. His Interior Minister (Bayan Solagh Jubr) *currently Financial Minister*, was the first to invent the use of electric drill in the torture technique in Iraq. Hundreds of innocent Iraqis were found dead after being subjected to torture by this technique. These are a considerable number of testimonies by officer in prisons or other institutions confirm that the use of this technique according to instruction by the minister himself. In late 2005, new evidence emerged that forces of **the Iraqi Interior Ministry were subjecting detainees to gross torture and ill-treatment in a number of facilities under its control**. On November and December, 2005, two Interior Ministry detention facilities in Baghdad, were found to be holding more than 800 detainees in appalling conditions, and many had been tortured. The US ambassador to Iraq admitted that "over 126" detainees found at these detentions facilities had been abused. Since then the Iraqi authorities promised to investigate but so far no result.

The minister and his security units were charged of forming death squads. These death squads were very active as from 2005 until Solagh had left the ministry of Interior. **(Please see attached our details report submitted to the UN Secretary General)**

With the change of the minister, torture and ill-treatment of detainees, continues. In its December, 2008 report UNAMI clearly expresses its concern on the **“ongoing widespread ill-treatment and torture of detainees”**. **The criminal activities of the “death squads” are still going one, but relatively less than 2005-2007.**

Torture and ill treatment are widely practiced in the three governorates north of Iraq, Arbil, Sulaymaniya and Arbil. **This is according to a testimonies by local people, and as confirmed by UNAMI** which has documented cases of ill treatment and torture in detention, particularly during interrogation, as well as denial of access to legal counsel at both the investigative stage and at trial.

Recommendation

- The Human Rights Council should establish a Special Commission with absolute power composed of independents figures to fully investigate all human rights abuses in Iraq especially forced disappearance.
- The United Nations should take all necessary measures to dismantle all the militias in Iraq, seize their property and infrastructure and issue arrest warrant against their criminal members.
- All detainees must be visited and interviews by UN special mission to record the ill-treatment, torture they expose to during the time they were imprisoned in Iraqi or US detention centers and prisons.
- All UN members should not give safe haven to any member of the after 2003 authorities in Iraq when charged with corruption, or human rights violations. This

demand should be implemented firstly by the European Countries were most of those members hold European nationality or passports.

Attachment:

Death squads in Iraq

¹ Special General Inspector for Iraq Reconstruction, *July 30, 2009 Quarterly Report and Semiannual Report to Congress*: http://www.sigir.mil/reports/quarterlyreports/Jul09/pdf/Report_-_July_2009.pdf

² BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR: 2008 *Country Reports on Human Rights Practices: February 25, 2009: 2008 Human Rights Report: Iraq*: <http://www.state.gov/g/drl/rls/hrrpt/2008/nea/119116.htm>

³ - UN in Iraq Marks First World Humanitarian Day - Calls for Renewed Commitment to Help Iraq's Most Vulnerable "<http://www.uniraq.org/newsroom/getarticle.asp?ArticleID=1115> »

⁴ Transparency International, *Global Corruption Barometer 2009* :

<http://www.transparency.org/content/download/43788/701097/>

⁵ "Iraq Government Hit by Graft: 4,000 Forged University Degrees Uncovered", AlterNet, 3 February 2009, http://www.alternet.org/waroniraq/124648/iraq_government_hit_by_graft_4.000_forged_university_degrees_uncovered/

⁶ Special General Inspector for Iraq Reconstruction, *The Effectiveness of U.S. Efforts to Combat Corruption, Waste, Fraud and Abuse in Iraq*, http://www.sigir.mil/reports/pdf/testimony/SIGIR_Testimony_08-002T.pdf

⁷ The New-York Times, 17 November 2008, *Premier of Iraq Is Quietly Firing Fraud Monitors*, http://www.nytimes.com/2008/11/18/world/middleeast/18maliki.html?_r=1&pagewanted=all

⁸ *The Washington Post*, Iraq's Ex-Trade Minister Is Detained in Graft Investigation, <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/30/AR2009053001089.html>

⁹ See in particular the UNAMI reports and the study conducted by Human Rights Watch

¹⁰ -Neshat, Saeid. "A Look into the Women's Movement in Iraq," (2003),

¹¹ - Iraqi Womens Will, Occupation Watch, Iraqi Rabita (Iraqi League), International Agencies, human rights and antiwar organizations (Amnesty International, the International Red Cross, the UN Assistance Mission to Iraq and the Brussels Tribunal).

¹² - Aswat al-Iraq, *ibid*,

¹³ Independant Women's forum, *Advancing Women's Rights: Two Years in Iraq*, December 3, 2008, <http://www.iwf.org/files/c45cf4cdaac5f237475227839b40369d.pdf>

¹⁴ - http://www.brusselstribunal.org/pdf/Torture_in_Iraqi_Prisons.pdf January, 2009.