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Written statement* submitted by the International Gay and Lesbian Human Rights Commission (IGLHRC), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The threat of ISIS and the LGBT situation in Iraq

Distinguished members of the United Nation's Human Rights Council,

As the Council debates the human rights implications of the violence and displacement in Iraq, the International Gay and Lesbian Human Rights Commission (IGLHRC) and Madre urge its members to consider the particular impact of the current situation on individuals who are perceived to be gay, lesbian, bisexual, or transgender (LGBT), in particular in areas under the control of the Islamic State of Iraq and Levant (ISIL).

ISIL's ideology demands strict adherence to narrow gender roles, and explicitly rejects a diversity of sexualities. Nusr, a website claiming to represent ISIL's views, recently published a legal precedent that requires both parties involved in acts of sodomy to be killed, regardless of whether the act is consensual or forced. In July of this year, ISIL issued a statement over social media about the supposed execution of Syrian man in Damascus province who allegedly had been found guilty by an ISIL court of committing "the act of people of Lut" (i.e. same-sex sexual activity). The statement and accompanied photos was published by various news sources, and was not denied by ISIL.

Advocacy of hatred directed at persons because of their real or perceived sexual orientation or gender identity is consistent with ISIL's treatment of those they consider non-compliant with their ideology. Over the past couple of months, non-governmental organizations and the media have published reports of kidnapping and trading of non-Muslim women, and of killings of Yazidi Iraqis by ISIL.

Unfortunately, Iraqi LGBTs are also often not safe in those parts of Iraq which are not under ISIL's control. Iraq has a number of laws that encourage the harassment, arrest, and imprisonment of LGBT individuals, even if consensual homosexual conduct is not technically a crime in Iraq. For example, the 1951 civil code, article 1(2), explains that, in the absence of a specific textual basis for prosecuting civil infractions, courts may apply custom, and failing a strong customary principle, the most relevant principle of sharia law.

Chapter five of the Iraqi Penal code provides the possibility of reduced sentence or amnesty for violent crimes with "honorable motives" or in response to "serious provocation of a victim." This provision has been used to mitigate penalties for perpetrators of violent crimes against persons suspected of being LGBT.

A separate law passed by the Iraqi Parliament in 2008 makes amnesty (a formal pardon) impossible for sodomy convicts, along with convicts of rape, incest, kidnapping, and aggravated theft.

Of course, violence against persons suspected of being LGBT is not a new occurrence in Iraq. Over the past decade, there have been sporadic media reports of targeted killing of suspected LGBT individuals by the members of militia. The first organized and documented campaign of violence started in 2009, during an atmosphere of moral panic that cut across sectarian lines. Human Rights Watch reported in August 2009 that Shia militias, which believe that homosexuality is a Western conspiracy to undermine Iraqi morals, had killed at least 90 people suspected of being gay or lesbian since the start of that year. In 2012, human rights organizations started reporting a new wave of violence, though the killings seemed to target gay Iraqis as well as teenagers who dressed "brashly," and this time the Iraqi government itself labelled the youth as enemies. The attacks seemed to be part of a broader effort of social cleansing, a wider sweep against non-conforming people that impacted more types of individuals. On February 13, 2012, Iraq's Interior Ministry released a statement that condemned the "phenomenon of emo" as Satanic; the statement said that rebellious teenage fashions of dark clothes, skull-print T-shirts and nose rings are emblems of the devil. The condemnation of this so-called "emo" look was due to a conflation of homosexuality and this particular style of dress, which some Iraqis consider effeminate. These killings and the statements from government officials made clear that the Iraqi government is unable and unwilling to protect non gender-conforming persons, and may even participate in their harassment through police detentions and mistreatment.

In light of the previous acts of violence against Iraqi LGBT individuals, and the rise of a new brand of radical forces, who do not have any tolerance for anyone different from them, it is imperative that the international community take immediate concrete measures to protect Iraqi individuals targeted for their actual or perceived sexual orientation and/or gender identity. Some of these individuals will need to be immediately relocated to countries or territories where they do not face immediate threats against their lives and would be able to live free from persecution and threat of violence, similar to other members of society.

Existing humanitarian mechanisms are woefully inadequate. LGBT individuals can only ask for protection if they have the financial resources, and the physical ability, to leave Iraq and seek refugee status through UNHCR system in neighbouring countries, in particular Turkey and Jordan, as processing no longer happens within Iraq. The process is costly and painfully slow, often lasting more than two years. During this time, most individuals cannot financially support themselves through work. The refugee applicants also have extremely limited access to medical care and education, and many face xenophobic and homophobic abuse by local communities. Furthermore, urgently needed mental health and psychological counselling is often not available for refugee seekers.

The International Gay and Lesbian Human Rights Commission and Madre respectfully ask the distinguished members of the Council to take into consideration the plight of Iraqi LGBT individuals. Those who are targeted because of their real or perceived sexual orientation and gender identity often have little support from their immediate family members, their extended family, and their society. In the face of advocacy of hatred and arbitrary killings carried out by various armed militias, including ISIL, LGBT individuals find themselves unprotected and extremely vulnerable.

Through offering expedited resettlement for LGBT individuals, dedicating resources to assist with the health needs of LGBT survivors of violence, and by allocating resources to promote tolerance and understanding of sexual orientation and gender identity, the members of the Council can help build a more secure future for Iraq.
