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QUESTION OF THE VIOLATION OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS IN ANY PART OF
THE WORLD

Situation of human rights in Iraq

Report submitted by the Special Rapporteur,
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Addendum*

Summary

This brief addendum to the report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/2004/36) covers the period 10 February-7 March 2004.

Its findings are mainly based on substantive consultations held by the Special Rapporteur in Amman from 3 to 6 March 2004. Two categories of participant took part in the consultations: eyewitnesses, some of whom had survived mass executions or severe torture; and high level officials of the Iraqi Ministries of Human Rights, Immigration and Justice, as well as the Minister for Human Rights of the Kurdistan Regional Government.

The main issues dealt with focused on oppression, discrimination, religious persecution and mass executions of persons belonging to the majority Shi'ah community; expulsions, mass executions of Faili (Shi'ah Iraqi Kurds) and misappropriation of their properties; the Anfal campaigns and the Halabcha chemical bombings; and the draining of the Marshes, including the consequent violations of a wide range of rights of the Marsh people.

The Special Rapporteur also received from the officials a consolidated report providing a general description of human rights violations committed under the former regime during the period 1979-2003, as well as important documentation from the Ministry for Human Rights of the Kurdistan Regional Government on the issue of mass graves pointing to the urgent need for financial assistance

and training from the international community.

Among other issues touched upon were the question of the return of Iraqi refugees at a time when local conditions, including insecurity and lack of housing, prevented their smooth return and reintegration, as well as the provisional Law of Administration of the State of Iraq for the transitional period that was to be adopted by the Iraqi Interim Governing Council. The Special Rapporteur expressed the hope that the new Law would comply with binding international human rights standards.

Finally, the Special Rapporteur recommended, inter alia, that the process of criminal investigations in connection with grave human rights violations be speeded up, that all mass graves be secured and that the process of identification of remains be accelerated. He called on the Iraqi authorities to ensure that all laws and the behaviour of all concerned in Iraq is consistent with their international obligations, in particular with the provisions of the International Covenant on Civil and Political Rights. He also urged them to ratify in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Special Rapporteur stressed that the democratization process required a steady improvement in security conditions in Iraq.

Introduction

1. The present document is an addendum to the report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/2004/36). It covers the period 10 February-7 March 2004.

I. CONSULTATIONS IN AMMAN, 3-6 MARCH 2004

2. After the postponement of meetings that were to be held simultaneously with a workshop on the place of human rights in the process of political, social and economic reconstruction of Iraq that was to have taken place in Amman from 8 to 10 February 2004, a new series of consultations were scheduled for 3-6 March. There were also a number of other meetings. The main purpose of the meetings was to obtain new evidence in respect of matters not yet touched upon, and additional information on questions that had been only partially dealt with.

3. These consultations, despite their short duration, proved to be quite successful, mainly because the participants could be selected with great care, on the basis of information that was already available to the Special Rapporteur. The Special Rapporteur's interlocutors were of two kinds:

(a) Eyewitnesses, some of whom had survived mass execution or severe torture;

(b) High-level officials of the Iraqi Ministry of Human Rights, the Ministry of Justice and the Ministry of Immigration, including two former non-governmental organization representatives who were responsible for investigations involving a process of interviewing witnesses, obtaining statements and examining a considerable amount of documentation emanating from the ousted regime. The Kurdistan Regional Government Minister of Human Rights also travelled to Amman to meet the Special Rapporteur. In addition, the Special Representative of the Secretary-General a.i., Ross Mountain, briefed the Special Rapporteur on the current situation in Iraq.

4. The time available allowed for consultations with 18 out of 19 people and concentrated mainly on the following issues:

- Oppression, discrimination and religious persecution, as well as mass executions of persons belonging to the majority Shi'ah community (more in-depth study of these questions is required);
- Expulsions, mass executions of Faili (Shi'ah Iraqi Kurds) and misappropriation of their properties;
- Eyewitness evidence on the Anfal campaigns and the Halabcha bombings;

- The degradation of the Marshes.

5. The new evidence, particularly that of eyewitnesses, added another dimension to the systematic crimes of the former regime, revealing unparalleled cruelty, even in respect of the people being taken away for execution, and at the same time stories unfolded that were far worse than originally reported to the Special Rapporteur in the past. Special reference should also be made to the very helpful information supplied by the high-level ministry officials and the team of young lawyers that has been carrying out investigations into human rights violations.

Eyewitness accounts

6. One eyewitness described how he survived a mass execution through sheer luck when two people next to him fell on top of him, shielding him from gunfire and allowing him to survive, escape and return several years later and to reveal the location of the mass grave. His evidence revealed the following important information: the executions were ordered by Sabawi Ibrahim, a high-ranking official, who also supervised them. The only reason for the mass executions, which took place soon after the liberation of Kuwait, was that the men and women killed were Shi'ah and the regime of Saddam Hussein wanted to demonstrate that it was still very much in power and that nothing had really changed.

7. Another witness reported that about 40-50 of the 200 people who were forced onto trucks to be taken away to be executed somewhere between Baghdad and Hilla were separated from the group and driven into a fire of burning tyres, while handcuffed and blindfolded, and burned alive. The other people were taken away and shot.

8. A young Shi'ah woman recounted how her father, brothers, husband, as well as over 200 other relatives had been executed without trial, their remains never returned, for the simple reason that they belonged to an old Shi'ah family that could trace its ancestry back to the Prophet and, as such, always performed their religious duties to the full. The young woman, who was arrested while she was pregnant in 1991, held in five different prisons and severely tortured, was able to flee to the Islamic Republic of Iran. She was sentenced to death in absentia. Today, she finds herself totally destitute in her native city of Baghdad.

9. One survivor testified about the tragedy of the Faili that took place at the beginning of the war with Iran in 1981, when the regime of Saddam Hussein arrested over 300,000 Kurds, falsely accusing them of not being Iraqi citizens, but Iranians, and forcibly expelling them all to Iran, except for 7,000-8,000 men and boys capable of bearing arms who were detained in prison for several years. Apparently, most of them were executed. According to another witness, thousands of Faili children were jailed and died in detention.

10. The story of people who were confined in Salman Castle prison was another example of a mass violation of the right to life, as well as an attempt to distort the truth. The former Minister of the Interior, who was responsible for executing these prisoners, apparently asked the Minister of Defence to issue death certificates stating that these people were martyrs who had fallen in the war against Iran. While most of them were never seen again, a few, including an eyewitness, survived by agreeing to fight on the front line. But even there, they were still treated as non-Iraqis.

11. A young man, who was a mere boy at the time, survived the Halabcha bombings in March 1988. He described to the Special Rapporteur the horror that followed the bombing of his native town with chemical weapons such as mustard gas, and the continuing effects on his health and that of hundreds of others who also survived the onslaught. Thousands of people died, including 25 members of his family, and thousands more are still suffering today from heart disease, breathing problems and eye allergies.

12. The Special Rapporteur also had confirmation of an earlier allegation regarding the sale of young

women detainees for various unlawful purposes. A witness saw five Egyptians leading away three young girls from the Topzawa camp, where the girls had been held captive with many others; the Egyptians claimed they were "authorized" to take the girls away, a claim confirmed by the local Baath party leadership.

13. Although more information should soon be forthcoming in respect of the Marshes, one eyewitness, a survivor of the continuous campaigns to drive people out of the region, testified about the magnitude of the ecological catastrophe perpetrated and the consequent violations of the rights of the Marsh people, including the right to life, their economic rights and the freedom to enjoy their cultural rights. The witness also referred to the efforts needed to repair the damage and to restore, to the extent possible, the Marshes to their original state.

Meetings with officials

14. The dialogue with the high-level ministry officials gave the Special Rapporteur the opportunity to be briefed on recent developments in the efforts to establish democracy and to prosecute serious violations of human rights, as well as an opportunity to stress that all laws and the behaviour of all concerned adopted in Iraq should be consistent with the country's international obligations, in particular those under the International Covenant on Civil and Political Rights, to which Iraq is a party. Also, the Special Rapporteur was able to draw their attention to certain areas where he requires further information, or to other areas where further investigations have to be carried out, or where follow-up to recommendations made in his previous reports is needed.

15. The Special Rapporteur also received from the officials a consolidated report, in three parts. The first part is a description of human rights violations committed under the regime of Saddam Hussein during the period 1979-2003. The second part is a short report from the Governorate of Basra, dated 9 September 2003, addressed to the Minister of Human Rights in Baghdad with a copy to the Coalition Provisional Authority in Basra, about persons whose ears had been cut off and their foreheads branded; the report contained a list of more than 100 names of people from the area who had suffered this horrible punishment. The third part of the report refers to an academic and scientific study drafted in 1991 containing a strategy and recommendations on ways to drain the Marshes. The Special Rapporteur will revert to an appraisal of this material when the entire contents have been translated.

16. The ramifications of the policy of "Arabization" of the former regime, referred to in his main report (para. 23), continue to be felt. The Special Rapporteur agreed with ministry officials that Iraqi refugees should not be encouraged to return too soon as local conditions, including the lack of security and of housing and other facilities, prevented their smooth return and reintegration. The Special Rapporteur supports the views recently expressed by the Office of the United Nations High Commissioner for Refugees (UNHCR) to donor States that it would only facilitate voluntary repatriation if and when requested, and that it was not promoting or encouraging the return of refugees because of the prevailing conditions of insecurity and other difficulties faced by the United Nations in general, and UNHCR in particular, in the country.

17. The Special Rapporteur also had a long meeting with the Minister for Human Rights of the Kurdistan Regional Government. Important documentation was given to the Special Rapporteur and the issue of the mass graves, with particular reference to difficulties faced in the investigations, was explained in detail. The Special Rapporteur expressed his support for the plea of the Minister of Human Rights that the international community should provide financial assistance, training and expertise so that this painful issue can be resolved as soon as possible.

18. Particular reference was also made to the provisional Law of Administration of the State of Iraq for the transitional period, which was to be signed on the day the consultations took place. Relevant points of the Law were explained to the Special Rapporteur who, for his part, stressed the need for

ensuring that with binding international human rights standards, in particular the International Covenant on Civil and Political Rights, are fully implemented in practice. At the same time, he underlined the need to overcome the lingering effects of years of oppression.

II. RECOMMENDATIONS

19. The Special Rapporteur urges all concerned to accelerate the process of criminal investigations in connection with grave human rights violations and to prosecute those responsible promptly.

20. He urges all concerned to secure all mass graves and accelerate the identification of remains. This would greatly benefit the process of national reconciliation.

21. He urges all concerned to continue and enhance their cooperation with the Special Rapporteur in order to assist him to complete his task in the shortest possible time and, to this end, make available to him documentary and other evidence of grave violations of human rights.

22. He calls on all countries of asylum not to press refugees to return to Iraq, as this could compound the difficulties that the Iraqi people face today, among other undesirable consequences.

23. He calls on the Iraqi authorities to ensure that all laws and practices adopted in Iraq are consistent with the country's international obligations, in particular those under the International Covenant on Civil and Political Rights.

24. He urges the Iraqi authorities to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This would be a refutation of torture, used as a political tool of oppression for so many years.

25. Last but not least, given the importance of a peaceful and secure climate for the democratization process, the Special Rapporteur urges all concerned to take the necessary steps to ensure that such conditions are achieved and maintained.

* This document is submitted late so as to include the most up-to-date information possible.

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