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Joint written statement* submitted by the International Youth and Student Movement for the United Nations, the Women's International Democratic Federation, non-governmental organizations in general consultative status, the International Organization for the Elimination of all Forms of Racial Discrimination, the Union of Arab Jurists, the Arab Lawyers Union, the General Arab Women Federation, the International Association of Democratic Lawyers, North-South XXI, the United Towns Agency for North-South Cooperation, the Indian Movement “*Tupaj Amaru*”, the Asian Women Human Rights Council, the Organisation pour la Communication en Afrique et de Promotion de la Coopération Economique Internationale - OCAPROCE International, non-governmental organizations in special consultative status, the International Educational Development, Inc., a non-governmental organization on the roster

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

[22 February 2012]

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

Detention and rule of law in Iraq**

** The BRussels Tribunal, Arab Lawyers Association- UK, Geneva International Centre for Justice (GICJ), Association of Humanitarian Lawyers (AHL), The International League of Iraqi Academics (ILIA), The Iraqi Commission on Human Rights (ICHR), Women Will Association (WWA), Organization for Widows and Orphans (OWO), Ikraam Center for Human Rights, Belgian Peace Movement, Ligue camerounaise des droits de l'homme, Monitoring Net of Human Rights in Iraq (MHRI), Women Solidarity for an Independent and Unified Iraq, Geneva Global Media Centre, International Coalition against War Criminals (ICAWC), Medical Aid for the Third World, Association of Iraqi Diplomats (AID), The African Association of Human Rights (AAHR), Protection of Human Rights Defenders in the Arab World, Moroccan Association for the Right to a Fair Trial, Americans Against the War (France), General Federation of Iraqi Women (GFIW), The International Action Center (IAC), American Worker, Association of Iraqi Intellectuals and Academics, The International Network of Arab Human Rights NGOs, America In Solidarity, Federacion De Mujeres Cubanas, Association of Victims of American Occupation Prisons, International Anti-Occupation Network (IAON), International Lawyers.org, International Society of Iraqi Scientists, The Perdana Global Peace Foundation, Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, El Taller International, World Courts of Women, Center for Development Studies- India, Wariscrime.org, Action Center for Justice, 1% A Peace Army.org, A Bigger Tent.org, Agir contre la guerre (France), American Voices Abroad (Berlin, Germany), American Voices Abroad Military Project (Europe), Anti War Fair, Arizona Christian Peacemakers, Armbands for Peace, Arms Against War, Artists Against the War, Backbone Campaign, Be the Change, Become Active, Bike for Peace (Germany), Bill of Rights Defense Committee, Bird Dogger Org., Children of Iraq Association (UK),Bloomington Peace Action Coalition (IN), Blue State News Only, Boston Mobilization, Bring Democracy Back, Bring Them Home,Butterfly Gardeners Association, Citizens for Accountability on Iraq, California for Democracy, Camp Casey Blog, Camp U.S. Strike for Peace Campaign, Campaign Against Sanctions and Military Intervention in Iran, Canada Watch, Carolina Peace Resource Center (SC), Cartoon Free America, Catalysts of Hope, Central Colorado Coalition on the Iraq War, Chester County Peace Movement (PA), Cindy Sheehan Org., Cities for Peace, Citizens for Legitimate Government, Citizens for Peace & Justice, Human Rights for all-Morocco, Christian Clergy For Impeachment.com, Clothing of the American Mind, Coalition Against Election Fraud, Coalition for Impeachment Now (COIN), Code Pink, the Iraqi Association for Human Rights (IAHR), Al-Basa'er Media Association, Consumers for Peace.org, Dhafir Trial.org, DC Anti-War Network.org, Democracy Action, Democracy for America Meetup (Birmingham, AL), The Democratic Activist, Democracy Rising.org, Democratic Underground, Human Resources (Tbilisi, Georgia), Democratic Renewal, Plataforma Aturem la Guerra (Stop the War Catalonia), Democrats.com, Earth Day.org, Earth Island Institute, East Cobb Democratic Alliance (Cobb County, GA), Eastern Long Island Democracy for America (NY), ECU Peace and Justice NC, Election Solar Bus, Environmentalists Against War, Envision a New America, Foundation for the Development of Fox Valley Citizens for Peace and Justice (IL), Global Exchange.org, Global Network Against Weapons & Nuclear Power in Space, Global Resistance Network, Gold Star Families for Peace, Grandmothers Against the War, Grandmothers for Peace, Grass Roots Impeachment, Grass Roots Impeachment Movement, Grassroots North shoreWI, Green Delaware, Hawaii CD-01 Impeachment Action Coalition, Historians Against the War, Honk to Impeach, Idriss Stelley Foundation, Impeach Bush Cheney, Independent Progressive Politics Network, Impeach Bush Coalition, Impeach Bush TV.org, Impeachbush-cheney.com, Impeach Central, Impeach for Peace - Marshall, TX, Impeachable Treason, Impeach Duh, Impeachment Sunday, Inform Progressive Virginia, International Socialist Organization, Impeach Bush Cheney Net, Iraq Veterans Against the War, Iraq Veterans Against the War - Kansas City, Justice Through Music, Lake Merritt Neighbours Organized for Peace (Oakland, CA), Latinos for America, Leader of the Free Word - a great screen saver, Liberal Democracy Alliance, Liberal Kids, LIBERTY TREE Foundation for the Democratic Revolution, Los Angeles National Impeachment Centre, Louisiana Activist Network, Marijuana Policy Project, Massachusetts Impeachment Coalition, Men's Project for Peace, Michael Moore Online.org, Michigan Peace Works,

In its reports about human rights situation in Iraq UNAMI (the UN Assistance Mission to Iraq) expresses its serious concerns about the administration of justice and the rule of law in Iraq – particularly in relation to the observance and respect for due process and fair trial standards, as well as the physical conditions in pre-trial and post-conviction detention facilities and prisons.¹ This statement will summarise the main issues related to detention and Rule of Law in Iraq, including torture and mistreatment, as presented in the more recent UNAMI/ OHCHR report issued in 2011.²

Military Families Against the War (UK), Military Free Zone, Stop the War Coalition (Bedford, UK), Million Musicians March, Mission Not Accomplished, Montgomery County Progressive Alliance (MD), Musicians and Fine Artists for World Peace, Muslims for Peace (Australia), National Lawyers Guild - Chicago chapter, National Lawyers Guild - Detroit & Michigan chapter, Northeast Impeachment Coalition, North Jersey Impeach Group (NJ), Northeast Georgia Peace Corner Group (Helen, GA), Northwest Ohio Peace Coalition, Northwest Progressive Institute (Pacific Northwest US), Not in Our Name.org, Not in Our Name (Aotearoa, New Zealand), Nyack Impeachment Initiative (NJ), Ohio Progressive Action Coalition, One Global Community, Olympia Citizens' Movement to Impeach Bush/Cheney (WA), One Million Reasons, Operation Cease Fire, Operation Impeachment, Orange County Grassroots (CA), Out of Iraq, Out of Iraq Bloggers Caucus, Patrick Henry Democratic Club, Patriotic Pulse, Patriots for Gore, Peace Action, Peace Action Wisconsin, Peace and Accountability, Peace Drum, Peace Majority, Peace Movement Aotearoa (New Zealand), Peace Reso.org, Peninsula Peace and Justice Center (Palo Alto, CA), People's Campaign for the Constitution, People Powered Impeachment, People's Email Network, People's Glorious Five Year Plan, Picnic to Impeach, Pixel4Peace.org, Playing in Traffic, PledgeToImpeach.org, Political Cooperative, Politics and Art, Progressive Action Alliance, Progressive Action Center, Progressive Avenues, Progressive Democrats of America, Progressive Democrats of Hawaii Project Filibuster, Project for the OLD American Century, Refusing to Kill.org, Rescue Our Democracy, Sacramento for Democracy (CA), St Pete for Peace (FL), Sampsonia Way, San Diego for Democracy, School of the Americas Watch, Sheehan for Congress, South Florida Impeachment Coalition, South Mountain Peace Action (Maplewood & South Orange, NJ), Springs Action Alliance (CO), Stop the War Coalition (UK), Students for Impeachment, Students Towards a New Direction (STAND), Summit County Progressive Democrats (OH), The Known UnKnowns, The Politically Incorrect Cabaret, The Rational Response Squad, Think Blue Dems, Time for Accountability, Toronto Coalition to Stop the War (Canada), Torture Abolition and Survivors Support Coalition International, True Blue Liberal.org, Trumansburg Impeachment (NY), Truth Empowered, Truthtelling Project, UC Nuclear, Underground Action Alliance, Unitarian Universalist Peace and Justice Group (Nantucket, MA), United Blue USA, United for Veterans (Wayne, MI), United Progressives, Upbeat Defiance, US Peace Memorial, US Tour of Duty: Iraq Veterans and Military Families Demand the Truth, Velvet Revolution, Vet Gulf March, Veteran Intelligence Professionals for Sanity, Veterans for Peace, Chapter 27, Virginia Grassroots Coalition, Voters for Peace, We the People for Peace, We the People Network, We the People Now, We The People United Bangladesh.org, Peace Surge, Peace and Justice Action League of Spokane (WA), Stop the War (UK), U.S. Peace Council, World Can't Wait.org, World Prout Assembly, Komite Internacionalista- Basque, Asociación Paz, Igualdad y Solidaridad Internacional, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, Málaga, Spain, Stop Fascism Action Network, The Asian Jurists Centre, Association of Human Rights Defenders in Iraq (AHRDI), The African Center for Human Rights (ACHR), Veterans for Peace, Your Declaration of Independence.org, Arab Lawyers Network-UK, Conservative Centre of Environmental & Reserves in Fallujah (CCERF), Willie Nelson Peace Research Institute, Studies Centre for Human Rights and Democracy, The Iraqi Centre for Human Rights, Association Internationale des droits de l'homme, NGOs without consultative status, also share the views expressed in this statement.

¹ See UNAMI Human Rights report on Iraq at (<http://www.uniraq.org/default.asp>)

² The Human Rights Office of the United Nations Assistance Mission in Iraq (UNAMI) in cooperation with the UN Office of the High Commissioner for Human Rights (OHCHR), Report on Human Rights in Iraq- Baghdad, JANUARY 2011, http://www.uniraq.org/documents/UNAMI_HR%20Report_English_FINAL_1Aug11.pdf

Treatment in detention

UNAMI regrets that its access to prisons, detention centres and other facilities where persons are deprived of their liberty was problematic in certain areas of Iraq, owing to the security situation generally or because access was restricted or prevented by the Government of Iraq. In some instances, despite UNAMI's mandate under international law, the Government of Iraq prohibited UNAMI access³ or failed to respond within a reasonable time to UNAMI requests for visit permits⁴. In other instances, UNAMI was allowed to enter facilities, but was denied access to any detainees⁵ or was prevented from speaking to detainees in private.⁶ As a result, the UN High Commissioner for Human Rights appealed to the Government of Iraq "... for unconditional access of UNAMI staff members to prisons and detention facilities"⁷ and later "... urge[d] the Iraqi Government to facilitate visits of the United Nations Assistance Mission for Iraq (UNAMI) Human Rights Teams to monitor the human rights situation in detention facilities."

During 2010, UNAMI conducted six monitoring visits to the *Tasfeerat* detention centre in Kirkuk. UNAMI found that lack of resources remained problematic. On three occasions UNAMI visited al-Sharaf (Camp Honour) detention centre located in the Green Zone in Baghdad, which nominally operates under the authority of the MoJ (*Ministry of Justice*), although its security is provided by the 56 ("Baghdad") Brigade of the 5th Division of the Iraqi Army - which in turn is under the nominal administrative control of the MoD (*Ministry of Defence*), but receives its policy guidance and direction from the Prime Minister's Office. On a visit to the women's prison inside Baghdad's al-Rusafa complex on 9 November UNAMI noted severe overcrowding, inadequate ventilation and the poor standard in general living conditions.

Through various visits to detention centres and prisons, UNAMI found evidence that detainees and prisoners had been threatened with beatings if they raised concerns with UN staff. Overcrowding was seen to be a major problem in many facilities. UNAMI obtained information that some prisoners would be removed from their cells before the arrival of

³ For example, two MoI officials informed UNAMI HRO separately on 28 April (2010) by phone that their superiors had passed instructions to ban visits by the United Nations to any MoI detention facility. The MoI resumed cooperation with HRO later in 2010 and granted UNAMI HRO a permit to visit three MoI detention facilities in Baghdad in November. According to UNAMI.

⁴ For example, on 31 March UNAMI HRO requested in writing a permit from the MoJ to visit al-Maqil Prison in Basra. Two renewed written requests were made on 16 May and 15 June. In addition, UNAMI HRO made numerous verbal enquiries. No permit has yet been received. Similarly, UNAMI HRO made repeated requests, including written ones, to the MoD throughout 2010 for a permit to visit Camp al-Sharaf. Only on 28 October was UNAMI HRO able to access the facility.

⁵ For example, when UNAMI HRO visited Camp al-Sharaf on 15 March no access to the inmates was granted. The Ministry of Defence authorities running the detention centre insisted that every single UNAMI HRO visit would require a written request to the MoD, approved by the Prime Minister, and subject to approval by the judge assigned to the detention centre. UNAMI HRO was again refused access to Camp al-Sharaf on 3 June. The situation only improved several months after the facility had been officially transferred to the MoJ. In other examples, UNAMI was denied access to the inmates at Basra's al-Mina detention centre on 4 February and to the prisoners at Basra's al-Maqil Prison on 18 August, 6 October and 4 December. In all cases the wardens cited lack of a written visit permit.

⁶ During the 10 August visit to al-Rusafa complex in Baghdad UNAMI staff were shadowed by MoJ officials who explained they had instructions to observe the visit, including all UNAMI conversations with inmates. Some Iraqi NGOs visiting prisons and detention centres have reported similar restrictions.

⁷ Letter dated 8 September from the UN High Commissioner for Human Rights to the Permanent Representative of Iraq to the United Nations at Geneva.

UNAMI in order to prevent them from being seen, in particular detainees who had visible marks of torture or abuse.

Furthermore, UNAMI obtained evidence that torture and ill treatment routinely takes place at the time of arrest and while in detention, UNAMI staff seeing marks on some prisoners and detainees that in UNAMI's opinion appeared consistent with torture or mistreatment. In addition, several detainees were threatened with the death or rape of their female family members if they refused to sign confessions.

Evidence gathered by UNAMI indicated that some detainees had been held for long periods of time – some up to two years – without being told of the charges against them and without access to family members, lawyers, or the courts.

UNAMI had information that on some visits prisoners would be removed from cells and concealed by the authorities to give the impression that over-crowding had been resolved but also to remove from view prisoners who had signs of physical injury.

More significantly, there was substantial evidence that prisoners and detainees had been physically mistreated and beaten following previous visits by UNAMI in order to compel them to disclose the nature and substance of their discussions with UNAMI.

Further visits to detention centres in Baghdad were suspended from mid December 2010 until unfettered, private access is permitted by the authorities to the inmates, and satisfactory guarantees have been given by the Government of Iraq that prisoners will not be harmed as a result of such visits which UNAMI is able to verify. Visits had not resumed by the end of the year.

Standards of detention

The law requires that medical care be provided for convicted prisoners, including the availability of at least one medical officer with some knowledge of psychiatry, and for women detainees, provision of special accommodation for all pre-natal and post-natal cases.⁸

Despite the law, in many instances Iraqi detention centres and prisons fall short of these minimum standards for a variety of reasons.⁹

Overcrowding in cramped conditions contributes to an environment where drug abuse, sexual and physical abuse and infectious disease are prevalent among the prisoners.

Access to health-care by detainees and prisoners is limited. In particular, pregnant women receive limited or inadequate ante- and post-natal care in prison – and the food for such women often falls below necessary standards of nutrition.

⁸ Article 10 of the ICCPR requires that anyone deprived of liberty must be treated with dignity and humanity. Article 10 complements Article 7, which prohibits torture and cruel, inhuman or degrading treatment. Article 10 also imposes specific obligations in relation to detainees and convicted prisoners, requiring that detainees awaiting trial must be separated from convicted prisoners, and children should at all times be kept separate from adult detainees and prisoners (Article 10.2). Article 10.3 intends that incarceration of convicted persons should focus on reform and rehabilitation rather than on punishment alone.

⁹ According to the report, inmates told UNAMI that large numbers of detainees had been removed from the cells prior to the visit by UN staff, that the cells had been cleaned up and food brought in for the prisoners. Many of the detainees held in different cells told UNAMI a similar story, adding credence to their allegations.

UNAMI also heard allegations that sectarian considerations played a part in decisions about keeping persons in detention. Several inmates claimed that they had been initially arrested by Shi'a militias merely because they were Sunni.

Torture and mistreatment

Torture is absolutely prohibited by international law¹⁰. Rules of IHL applicable to international as well as non-international armed conflict also absolutely prohibit torture of persons arrested, detained or captured in relation to an armed conflict.

Despite the laws of Iraq and international standards binding on Iraq, which absolutely prohibit torture, there is significant evidence that mistreatment, abuse and torture of persons in detention is widespread in Iraq¹¹. Significant numbers of detainees held in prisons visited by UNAMI, alleged torture and physical abuse, particularly during interrogation – and UNAMI received allegations from a variety of sources, including members of the CoR, alleging mistreatment, torture and abuse of prisoners held in al-Taji detention facility, following its hand-over to Iraqi authority by the USF-I in March 2010.

UNAMI has recorded numerous allegations of mistreatment and torture of persons at time of arrest, while in remand awaiting trial, and after conviction. Common techniques alleged include being beaten and threatened with death; being handcuffed and suspended from iron bars in painful positions for lengthy time periods; electric shocks to various parts of the body, including the genitals; cigarette burns to the body; being deprived of food, water, and sleep; having plastic bags placed over the head; and being subjected to threats against family members.

UNAMI has received consistent allegations that suspects have been forced often to sign statements, which they had not been permitted to read or had read to them.¹²

UNAMI strongly condemns the continued resort to torture or ill-treatment of detainees in Iraq and urges Iraqi authorities to take urgent steps to bring this to an end.¹³

¹⁰ Article 7 of the ICCPR prohibits torture and cruel, inhuman or degrading punishment. Article 7 cannot be derogated under any circumstances. The Article is now interpreted to impose similar obligations to those required by the United Nations Convention Against Torture, including not just a prohibition on torture, but requiring governments to take active measures to prevent its occurrence and a prohibition on re-oulement.

¹¹ Article 333 of the ICPC criminalises any public official who tortures or orders torture, or threatens torture, of a person accused of a criminal act, including witnesses, with the aim of compelling a confession.

¹² From information collected by UNAMI, it appears that a magistrate is not generally present during the taking of statements by accused persons and that different methods of physical and psychological methods of coercion are brought to bear on accused persons by interrogators to obtain confessions and to extract information.

¹³ UNAMI suggest a number of steps “Firstly, the government should consider legislative and institutional reform, such as ensuring that procedures for investigation of cases and conduct of court proceedings and trials rely on lawfully acquired, forensic evidence, rather than relying merely on the confessions of accused persons; that the powers of arrest and the system of detention and prisons be institutionally reformed so that the powers and procedures to effect arrest are more clearly articulated in law, as well as the requirement that all persons, once arrested, must be taken within the legally stipulated period before a judge, who must actively consider reasonable alternatives to detention for persons awaiting trial. Where a judge orders an accused person to be held on remand, the detainee should be transferred immediately to detention facilities designed and intended solely for persons awaiting trial, which, along with prisons for convicted prisoners, should be administered and secured by professionally trained staff who are themselves administered and responsible to a single Government ministry or department.”

Some abuse is also linked to the fact that judicial procedure is heavily dependent on the extraction of confessions (whether true or false) from a suspect, irrespective that the law disallows confessions obtained through coercion to be used in evidence.

Several cases monitored by UNAMI indicate that victims and survivors are generally reluctant to report any of the violations to which they may have been subjected, primarily because they fear retribution. In the rare instances where investigations were carried out by the responsible authorities, penalties applied to perpetrators were often limited to disciplinary or administrative measures.

In a revelation of prisoner abuse which was reminiscent of the Jadiriya/Site 4 scandal in 2005, the Los Angeles Times on 19 April published information that the MoHR had discovered a secret detention centre at the old al-Muthanna military airport in Baghdad's al-Karkh District in March 2010, allegedly one of two detention facilities in Baghdad run by the "Baghdad" Brigade and overseen by the Baghdad Operations Command, both of which operate under the Prime Minister's office.

It was alleged that over 100 of the Sunni detainees transferred from Mosul to al-Muthanna between September and December 2009 were routinely tortured and abused. Detainees alleged that one of their fellow inmates died of torture in the facility in January 2010. According to a statement attributed to the MoHR, three officers who worked at al-Muthanna were arrested. Testimonies of 42 former inmates alleging torture were published by Human Rights Watch, which in late April (2010) gained access to 300 former al-Muthanna detainees at the al-Rusafa complex in Baghdad, all of them Sunnis from Ninawa Governorate. One of the victims was found to be a disabled, dual British-Iraqi citizen.

In another incident on 12 May, (2010) seven prisoners suffocated while being taken from al-Taji Prison to al-Rusafa detention centre in Baghdad. According to one official security source, the vehicles in which approximately 95 or 100 prisoners were transported were designed for no more than 15 passengers each. The prisoners were held in a space made of metal and without windows.

MNF-I and USF-I incident reports which were unofficially published at the end of 2010, indicated that US forces witnessed extrajudicial executions, torture and abuse by Iraqi soldiers, police officers and prison guards... The High Commissioner for Human Rights issued a media release on 27 October in which she called upon the Government of Iraq to take all necessary measures to investigate allegations made in these reports and, if confirmed, to bring those behind unlawful killings, summary executions, torture and other serious rights abuses to justice in line with ICCPR¹⁴.

Due process and powers of arrest

International law binding on Iraq requires that due process is respected in relation to arrest, charge, detention, and trial of all individuals within the territory and subject to the jurisdiction of the State¹⁵.

¹⁴ The High Commissioner for Human Rights, press release: <http://www.iraqwarlogs.com/2010/10/27/un-high-commissioner-calls-for-investigation-into-war-logs-allegations/>

¹⁵ Article 9 of the ICCPR recognises the rights to liberty and security of the person. It prohibits arbitrary arrest and detention, requires that any deprivation of liberty be according to law, and obliges Parties to allow those deprived of their liberty to challenge their imprisonment through the courts. These provisions apply no matter what the justification for imprisonment may be, and apply equally to those detained or imprisoned on account of criminal proceedings, terrorism, psychiatric illness, drug addiction, or for educational or immigration purposes. Specifically, Articles 9.3 and 9.4 impose on Iraq procedural safeguards, requiring that any person arrested must be promptly informed of the

Public authorities having the power of arrest are the Iraqi Police and the Security forces, administrative and policy responsibility for which are split, depending on the force in question, between the Ministry of Interior (MoI), the MoD and the Prime Minister's Office.¹⁶ All these authorities may arrest any person against whom a warrant has been issued by a judge or court or in other cases stipulated by law – the exception being authorities under the direction of the Prime Minister's Officer who may arrest individuals previous to obtaining a warrant.¹⁷

UNAMI has recorded claims by a significant number of detainees that they did not know the reasons for their arrest or detention, and that they had not been provided with the details of the actual charges being pressed against them, either verbally or in writing. A number of detainees alleged that they had been detained for reasons not connected to any alleged violation of the criminal law, but from failure to pay bribes to security officials, or for sectarian, or other reasons.

Furthermore, UNAMI has been informed by detainees and former detainees that when they are taken before the court, bail is rarely granted. Accused persons are merely questioned for a few minutes by the presiding judge as to their identity and to confirm what they stated in their "confessions" (which are often produced by the arresting authority, having been obtained before the accused is presented to the court). Detainees are often then returned to their cells without being informed of the process that will then be applied to them.

Among UNAMI recommendations are:

- UNAMI would continue to urge the Government of Iraq to actively investigate all reports of secret detention centres or cases of incommunicado detention, to immediately remedy the situation, to compensate persons whose rights have been violated, and to hold perpetrators of such acts accountable under Iraqi law.
- Ensure that all allegations of torture or other ill-treatment are promptly, properly and independently investigated, that perpetrators are charged and tried according to law, and that victims are appropriately and adequately compensated including by providing appropriate medical, social and other assistance; and

Recommendation by the NGOs signatories to this statement:

- Ensure that all human rights violations in Iraq during the invasion and occupation be investigated by an international independent body.

charges against her or him, and that she or he must be brought promptly before a judge. Article 9.3 restricts the use of pre-trial detention, in that it should only be imposed in exceptional circumstances and only for such time as is strictly necessary.

¹⁶ As noted above, responsibility for arrest and detention is split between different ministries and different branches of the ISF, thereby clouding accountability for the administration of detention centres and prisons. These authorities consist of the Directorate of Counter Terrorism and Organised Crime under the MoI, the Baghdad Operation Command and Counter Terrorism Unit which is answerable to the Prime Minister's Office, Brigade 56 which is responsible for security in the Green Zone and Brigade 54 (al-Muthana Brigade) which are administratively within the Department of Defence, but which receive their policy direction from the Prime Minister's Office.

¹⁷ According to the Iraqi Constitution, Article 15, "every individual has the right to enjoy life, security and liberty; deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority". In addition, Article 37, paragraph B of the Iraqi Constitution states that "no person may be kept in custody or interrogated except in the context of a judicial decision." Section II, Article 92 of the Iraqi Criminal Procedure Code (ICPC), Number 23 of 1971, states that the "arrest or apprehension of a person is permitted only in accordance with a warrant issued by a judge or court or in other cases as stipulated by the law".

- All measures must be taken to end the current state of impunity, both within Iraq, and with regard to the culpability and responsibilities of the occupying powers in particular.
 - Appoint a UN Special Rapporteur for the Human Rights situation in Iraq.
 - Request the High Commissioner to present to the Council a detailed report on the Human Rights violations in Iraq since 2003 according to UNAMI and the civil society reports.
 - Request Special Rapporteur on torture, and the Working Group on Arbitrary Detention, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, and Special Rapporteur on the independence of judges and lawyers to focus on this matter in their reports.
-