



# General Assembly

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## Human Rights Council

Twenty-fourth session

Agenda item 3

**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

Agenda item 4

**Human rights situations that require the Council's attention**

**Joint written statement\* submitted by the Union of Arab Jurists, the International Organization for the Elimination of All Forms of Racial Discrimination, Women's International League for Peace & Freedom, the General Arab Women Federation, North-South XXI, the Arab Lawyers Union, the United Towns Agency for the North-South Cooperation, the Indian Movement "Tupaj Amaru", the Arab Organization for Human Rights, the Asian Women's Human Rights Council, the Organisation pour la Communication en Afrique et de Promotion de la Coopération Economique Internationale - OCAPROCE International, Human Rights Now, the International Federation of University Women, Organisation Mondiale des associations pour l'éducation prénatale, the World Wide Organization for Women, non-governmental organizations in special consultative status; the International Human Rights Association of American Minorities, the Indian Council of South America, the World Peace Council, International Educational Development, Inc., non-governmental organizations 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.

[2 September 2013]

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

## Truth, justice and reparations for Iraq\*

March 20, 2003 marks a dark day in the history of the 21<sup>st</sup> century. On this day, the U.S. and Britain, supported by a group of almost fifty countries called the “coalition of the willing” led an illegal war on the independent UN member state of Iraq, resulting in a devastating occupation<sup>1</sup>. The heritage of thousands of years has been destroyed and an ancient, deeply rooted culture thrown into chaos. Ten years have passed, but the Iraqi people are still waiting for justice and accountability.

The suffering inflicted on the Iraqi people is still widely ignored by the international community and it is questionable if the full extent of the damage will ever be recognized. It is estimated that over one million people have been killed during the years of the war and occupation, up to 5 million have been displaced, 4-5 million children have lost a parent, between one and two million women have become widows<sup>2</sup>, 23 percent of Iraq's estimated 30 million people live under the poverty line and 600.000 orphans live in the streets. If there is any people in this world that deserve the right to truth, justice and reparations and guarantee of non-recurrence, it's the Iraqi people.

Among the worrying figures is the number of missing people as a result of the war. According to different sources the estimations range from 250.000 up to one million<sup>3</sup>, among them over 90.000 children of displaced families<sup>4</sup>.

### The right to truth

The right to truth is often invoked in the context of gross human rights violations and has taken an increasing importance in recent decades. It finds its roots in international humanitarian law, in particular in regard to the right of families to know the fate of their

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\* Please see last page for list of NGOs without consultative status, also sharing the views expressed in this statement.

<sup>1</sup> The war was repeatedly declared to be an illegal war in contravention of article 2, paragraph 4, of the UN Charter, see: Iraq war illegal, says Annan <http://news.bbc.co.uk/2/hi/3661134.stm>

<sup>2</sup> Compare: The daily struggle of Iraq's widows of war (November 2011) <http://www.reuters.com/article/2011/11/09/us-iraq-widows-idUSTRE7A841T20111109>

<sup>3</sup> A report issued by the International Red Cross during year 2009, noted that the number of missing in Iraq has reached one million people

<sup>4</sup> In 2009 about 20% of internally displaced and 5% of refugee returnee reported children to be missing. Many communities reported missing family members (30% of IDPs, 30% of IDP returnees, 27% of refugee returnees) indicating that they were missing because of kidnappings, abductions and detentions and that they do not know what happened to their missing family members. <http://www.uniraq.org/documents/UNHCR%20Iraq%20Protection%20Monitoring%20Jan-Oct%202009.pdf>

relatives.<sup>5</sup> However, it is equally linked with other rights<sup>6</sup>, such as the right to legal and judicial protection, the right to an effective investigation and the right to obtain reparation.<sup>7</sup>

Since 2003 the people of Iraq live in a failed state, rife with corruption and brutality. The education system has broken down and illiteracy is on the rise. Thousands of children have died due to poor health services and a worrying increase of birth defects in certain areas has to be noted. Security is non-existent. Thousands of Iraqi families are still searching for their relatives but neither the United States nor Iraqi authorities did ever help families to search for them. Many have been killed or languish in one of the many secret prisons established under occupation that continue to exist until this day<sup>8</sup>. Security forces target civilians in mass campaigns of arbitrary arrests, torture and abuse in prisons is widespread and mass executions occur on a regular scale.

Recognition is precondition and consequence of justice.<sup>9</sup> One of the first demands of victims<sup>10</sup> therefore is to obtain recognition of the fact that they have been harmed. Impunity however remains the dominant feature for Iraq. The international community has frequently condemned the invasion but until 2013 the responsible as well as the perpetrators of crimes have been granted immunity. Inside Iraq the Iraqi government bears the primary responsibility for such immunity but never took appropriate legal action<sup>11</sup>, granted impunity to offenders and continued to violate human rights. Society has the right to truth about past events concerning the perpetration of heinous crimes, as well as the circumstances and the reasons for which aberrant crimes came to be committed, so that such events do not reoccur in the future.<sup>12</sup>

<sup>5</sup> Compare: Article 32 of the additional protocol of the Geneva Conventions, 12 August 1949, relating to the Protection of Victims of International Armed Conflicts: In the implementation of this Section, the activities of the High Contracting Parties, of the Parties to the conflict and of the international humanitarian organizations mentioned in the Conventions and in this Protocol shall be prompted mainly by the right of families to know the fate of their relatives. <http://www.icrc.org/ihl/INTRO/470>

<sup>6</sup> Although this right was initially referred to solely within the context of enforced disappearances, it has been gradually extended to other serious human rights violations such as extrajudicial executions and torture. Compare Study on the right to truth, Report of the Office of the United Nations High Commissioner for Human Rights E/CN.4/2006/91, Article 5, 6, 8 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/106/56/PDF/G0610656.pdf?OpenElement>

<sup>7</sup> E/CN.4/2006/91, Study on the right to the truth, report by the OHCHR 8 February 2006, art. 57 and 60 E/CN.4/2006/91, Study on the right to the truth, report by the OHCHR 8 February 2006, art. 57 and 60 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/106/56/PDF/G0610656.pdf?OpenElement> art. 57

<sup>8</sup> A member of the current Iraqi parliament estimated the number of these prisons to be more than 420 [http://www.brusseltribunal.org/pdf/NGOs\\_FULL\\_REPORT\\_UPR.pdf](http://www.brusseltribunal.org/pdf/NGOs_FULL_REPORT_UPR.pdf) Compare also: Secret Jail uncovered in Baghdad, the guardian, Feb. 2011, source, Human Rights Watch <http://www.hrw.org/news/2011/02/01/iraq-secret-jail-uncovered-baghdad>

<sup>9</sup> Compare report A/HRC/21/46 of the Special Rapporteur on the promotion of truth, reparation and guarantee of non-recurrence, Pablo de Greiff, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46_en.pdf)

<sup>10</sup> Compare report A/HRC/21/46 of the Special Rapporteur on the promotion of truth, reparation and guarantee of non-recurrence, Pablo de Greiff, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46_en.pdf)

<sup>11</sup> Report 2010 by The Organization for Justice and Democracy in Iraq (OJDI), the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), and Arab Lawyers Union (ALU) [http://www.brusseltribunal.org/pdf/NGOs\\_FULL\\_REPORT\\_UPR.pdf](http://www.brusseltribunal.org/pdf/NGOs_FULL_REPORT_UPR.pdf)

<sup>12</sup> E/CN.4/2006/91, Study on the right to the truth, report by the OHCHR 8 February 2006, art. 58 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/106/56/PDF/G0610656.pdf?OpenElement>

### **The right to reparations**

All victims of violations of human rights are thus entitled to reparation<sup>13</sup>. The people of Iraq are entitled to a measure of satisfaction in the form of an official apology from all the States that participated in the invasion and occupation, as well as compensation for the material and moral injury. This obligation is a *general principle of law* as referred to in article 38, paragraph 1c of the Statute of the International Court of Justice<sup>14</sup>. Such compensation will include:

- Rebuilding the Iraqi infrastructure, government institutions, schools and private property that were bombed or damaged during war and under occupation
- An environmental clean-up, undertaken and financed by the coalition of the willing, that is responsible for the use of depleted uranium and other toxic agents that are susceptible to the worrying increase of cancer and birth defects
- Restore the Iraqi health system to pre-invasion levels, which used to be the best in the region but even after ten years of alleged reconstruction still fails to meet minimum standards.
- Protect internally and externally displaced persons. The coalition of the willing should offer financial and political support to refugees
- Locate missing and disappeared persons. Even ten years after the invasion kidnappings, abductions and detentions continue to occur. Many of the disappeared are languishing in prisons or have been executed. These cases must be disclosed.
- End human rights violations including torture, arbitrary arrests, forced disappearances, trafficking of persons, moral and physical harm and the use of illegal weapons.
- Appoint a UN Special Rapporteur for Iraq. Human rights abuses inflicted on the Iraqi people are still present in the country and must be monitored.
- Uncover and prosecute violations committed during the war and invasion
- All countries, including the US should ratify the statute of the International Criminal Court and serious cases be referred to the Court for investigation and prosecution.
- A United Nations Compensation Commission for the Iraqi victims should be established, or at least a special fund that could be administered by the OHCHR.

### **Finally, we call on the UN in general and the Human Rights Council in particular to:**

- Ensure that all human rights violations in Iraq during the sanction and the invasion and occupation be investigated by an international independent body.
- Appoint a UN Special Rapporteur for the Human Rights situation in Iraq.
- Request the Special Rapporteur on the promotion of truth, to request a country visit to Iraq and include the topic in his reports.

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<sup>13</sup> Recognition is only a first step which further leads to reparations. Reparations provide the material form of the recognition owed to an equal rights holder whose fundamental rights have been violated .Compare report A/HRC/21/46 of the Special Rapporteur on the promotion of truth, reparation and guarantee of non-recurrence, Pablo de Greiff, article 30, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46_en.pdf)

<sup>14</sup> Prof. Dr. Alfred de Zayas: [http://www.gicj.org/iraq\\_conference\\_speeches/Prof\\_de%20Zayas%20presentation.pdf](http://www.gicj.org/iraq_conference_speeches/Prof_de%20Zayas%20presentation.pdf)

*Notes:*

The following are NGOs without consultative status, who also share the views expressed in this statement: 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, Alliance to Renew Co-operation among Humankind, 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, 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, Military Families Against the War (UK), Military Free Zone, Stop the War Coalition (Bedford, UK), Plataforma Aturem la Guerra (Stop the War Catalonia), 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 Internazionalista- 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.

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