



General Assembly

Distr.: General
4 March 2014

English and French only

Human Rights Council

Twenty-fifth session

Agenda item 4

Human rights situations that require the Council's attention

Joint written statement* submitted by International Youth and Student Movement for the United Nations, non-governmental organizations in general consultative status; International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Arab Lawyers Union, Arab Organization for Human Rights, General Arab Women Federation, Indian Movement "Tupaj Amaru", International Volunteerism Organization for Women, Education and Development - VIDES, Nord-Sud XXI - North-South XXI, Organisation Mondiale des associations pour l'éducation prénatale, Organisation pour la Communication en Afrique et de Promotion de la Cooperation Economique Internationale - OC Internationale, Union of Arab Jurists, United Towns Agency for North-South Cooperation, Women's International League for Peace and Freedom, non-governmental organizations in special consultative status; Indian Council of South America (CISA), International Educational Development, Inc., International Human Rights Association of American Minorities (IHRAAM), World Peace Council, 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.

[17 February 2014]

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

GE.14-11643



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Universality in Ending Impunity*

The principle of universality is one of the essential characteristics of human rights and as such embedded in a number of international human rights treaties and provisions, originating in the 1948 Universal Declaration of Human Rights and reiterated in multiple conventions, declarations, and resolutions. Upholding these values is the collective responsibility of the international community, united in the spirit of human dignity, equality and justice.

In 2000 the United Nations General Assembly adopted the United Nations Millennium Declaration and one more time reaffirmed its commitment to the “timeless and universal” purposes and principles of the Charter of the United Nations as well as the increasing capacity to “inspire as nations and peoples have become increasingly interconnected”. On 20 March 2003, against the best of intentions, the international community failed to prevent an illegal invasion against the sovereign UN member State of Iraq, resulting in a disastrous occupation and undermining the fundamental values the United Nations stood for.

Eleven years after the invasion the full scale of the destruction is just starting to become clear and the injustice inflicted on the Iraqi people is still not properly rectified – be it morally, materially or any other way. Until this day the people of Iraq are waiting in vain for an official apology, for compensation to be paid, or the responsible to be held accountable. Yet, to acknowledge and address injustice, ending impunity for perpetrators of mass atrocities and providing corrective measures is the only way to uphold the moral authority of the international community, prevent future atrocities and create sustainable peace.

Principles to Combat Impunity

In order to combat impunity and protect the victims of gross and systematic human rights violations the Commission of Human Rights has defined a set of principles for the protection and promotion of human rights through action to combat impunity¹, defining the right to truth, the “right to know”, the right to justice (People have the right to be protected from violent crimes, as well as to justice when they are its victims) and the right to reparation including the guarantees of non-recurrence.²

The “right to the truth” finds its roots in international humanitarian law. Initially referred to within the context of enforced disappearances³, it has since been gradually extended to other serious human rights violations such as extrajudicial executions and torture⁴. The right to truth is further linked with the right to legal and judicial protection, the right to an effective investigation and the right to obtain reparation,⁵ and vice versa, since effective remedy includes “access to the factual information concerning the violations”.⁶ Principles to combat impunity are therefore inextricably intertwined and interdependent.

The Injustice

¹ E/CN.4/2005/102/Add.1, Revised version of the principles on impunity

² <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement>

³ 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>

⁴ 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>

⁵ 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

⁶ In its Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, African Commission on Human and Peoples' Rights

The war on Iraq and subsequent occupation of Iraq were in a clear breach of article 2, paragraph 4 of the United Nations charter, accompanied by grave violations of the Geneva Conventions of 1949 and the 1977 Protocols. The decision was taken unilaterally by the US and its allies, based on the false claim that Iraq possessed weapons of mass destruction. A transcript of a secret conversation between President Bush and Tony Blair during a private meeting in the Oval Office on Jan. 31, 2003 however revealed that the US and UK were prepared to invade Iraq with or without the existence of such weapons.⁷

It was further clear that long ahead of the war, a regime change of Iraq had been the main declared aim of the US policy since October 31, 1998, the former US President Bill Clinton had signed the "Iraq Liberation Act", which declared in article 3: "It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime."⁸ As a military invasion waged without the justification of self-defense, the war on Iraq was a war of aggression, which according to the International Military Tribunal at Nuremberg, "is not only an international crime; it is the supreme international crime, differing only from other war crimes in that it contains within itself the accumulated evil of the whole." An act of aggression is further recognized as an international crime in the Rome statute of the International Criminal Court. The Injustice inflicted on Iraq must be addressed and all responsible be held accountable⁹.

The Damage

In 2014 the suffering inflicted on the Iraqi people is still widely ignored by the international community. No justice has been found for the possibly up to one Million people who died as a direct result of the invasion¹⁰, for the almost 5 million children who have lost a parent or for those estimated five million internally and externally displaced (up to 20% of the population), often living in extreme poverty¹¹ and subjected to multiple displacements¹². Equally unnoticed goes the plight of the Iraqi women and notably those up to two million widows¹³ who as a result of the war have lost their basic rights, such as employment, freedom of movement and the right for education and health service.¹⁴

Amid the worrying figures is the number of missing people as a result of the war. Different estimations range from 250.000 up to one million¹⁵, among them over 90.000 children¹⁶. Thousands of families were left alone by both, the US

⁷ Article published by the NYT on March 27, 2006, Bush Was Set on Path to War, British Memo Says
http://www.nytimes.com/2006/03/27/international/europe/27memo.html?pagewanted=1&_r=0

⁸ An Act To establish a program to support a transition to democracy in Iraq
<http://www.gpo.gov/fdsys/pkg/BILLS-105hr4655enr/pdf/BILLS-105hr4655enr.pdf>

⁹ Compare: International court could try Iraq war crimes, by N Fermuoz, San Jose, March 26, 2003
<http://www.lawyersagainsthewar.org/legalarticles/icc.html>

¹⁰ Without deaths among the millions of displaced Iraqis. Academic estimates range from less than half a million to more than a million. John Tirman, the principal research scientist at the MIT Centre for International Studies, has examined all the credible estimates and found that average figures suggest roughly 700,000.

The guardian, 7 February 2014, The truth about the criminal bloodbath in Iraq can't be 'countered' indefinitely
http://www.theguardian.com/commentisfree/2014/feb/07/west-criminal-bloodbath-iraq-media-cover-up?CMP=fb_gu

¹¹ International Rescue Committee: Iraq, 10 years on: "Living in prolonged limbo"
<http://www.rescue.org/blog/iraq-10-years-living-prolonged-limbo>

¹² 2014 UNHCR country operations profile – Iraq
<http://www.unhcr.org/pages/49e486426.html>

¹³ Compare: The daily struggle of Iraq's widows of war (November 2011)
<http://www.reuters.com/article/2011/11/09/us-iraq-widows-idUSTRE7A841T20111109>

¹⁴ Compare: The continuing deterioration of women's rights in Iraq. Presentation given by Haifa Zangana in the European Parliament in Brussels on 29 January 2014.; http://www.brusseltribunal.org/article_view.asp?id=1388#UvNex_15N8F

¹⁵ A report issued by the International Red Cross in 2009, noted that the number of missing in Iraq has reached one million people

¹⁶ 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>

and the Iraqi government, in the search for their relatives, whose names have forever vanished¹⁷ in the chaos of war and occupation, during which targeted attacks, arbitrary arrests and extrajudicial executions occurred on a regular scale and continue until this day¹⁸. This fundamentally violates the Iraqi people's right to truth, essential to end or prevent psychological torture¹⁹ and for societal healing and reconciliation to take place.²⁰

The invasion has further totally destroyed the country's infrastructure. About 23 percent of Iraq's estimated 30 million people live under the poverty line and 600.000 orphans live in the streets. Prior to the invasion the Iraqi health and education system²¹ was considered to be the most advanced in the region. Eleven years later the people of Iraq live in a failed state. The education system has broken down and illiteracy is on the rise. Thousands of children are dying due to poor health services and a worrying increase of birth defects in certain areas has to be noted. Trafficking and abductions have risen to new heights and especially minor girls are the victims.²²

Among the most insidious consequences of the Invasion is the disastrous situation of the Iraqi judicial system. In 2014 arbitrary arrest, denial of due process, torture and mistreatment are still the norm rather than the exception and execution rates have risen to record heights. Military forces target civilians in mass campaigns of arbitrary arrests, torture and abuse in prisons is widespread and mass executions occur on a regular scale. The situation reflects the failure of the US and UK to hold their troops accountable for abuses in detention and extra judicial killings. The impunity with which these forces operated has paved the way for the current government to make excuses for abuses, failure of law and order, and lack of accountability.

Recognition

The international community has frequently condemned the invasion but until 2014 the responsible as well as the perpetrators of crimes have been granted impunity. Inside Iraq the Iraqi government bears the primary responsibility for such impunity to offenders. Yet, 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.²³ Recognition is

¹⁷ Compare: Restoring Names to War's Unknown Casualties
http://www.nytimes.com/2010/08/31/world/middleeast/31legacy.html?_r=2&hp

¹⁸ 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
 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>

¹⁹ Compare: The right to the truth in international law: fact or fiction? Yasmin Naqvi
http://www.icrc.org/eng/assets/files/other/irrc_862_naqvi.pdf

²⁰ ICCPR, Article 7

²¹ Compare: Hans C. Graf Sponeck, Iraq and the Betrayal of People, Impunity forever? at: *Iraq, the Forgotten People, Geneva International Centre for Justice, 2013*: (Since the years of war, sanctions and occupation, malnutrition and diseases, almost forgotten in Iraq have re-emerged on a large scale, such as respiratory infections; measles; typhoid fever and tuberculosis).

²² For less than 16 years old girls, prices range from 30,000 US dollars; older girls attract the price of 2,000 US dollars. The traffickers are aided by sophisticated criminal networks that are able to forge documents and pay corrupt officials to remove impediments. Girls as young as 10 or 12 have been trafficked from Iraq into countries including Jordan, Lebanon, United Arab Emirates and Saudi Arabia for sexual exploitation. Other victims trafficked within Iraq end up in nightclubs or brothels, often in Baghdad. The large population of internally displaced persons and refugees moving within Iraq and across its borders are particularly at risk of being trafficked. In 2013, the US State Department released a report on human trafficking in the world, According to the US report, Iraq was categorized as a hotbed of human trafficking and smuggling from all over the world. "The continuing deterioration of women's rights in Iraq". Presentation given by Haifa Zangana in the European Parliament in Brussels on 29 January 2014,

http://www.brusseltribunal.org/article_view.asp?id=1388#UvOGIP15N8H

²³ 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>

precondition and consequence of justice.²⁴ One of the first demands of victims²⁵ therefore is to obtain recognition of the fact that they have been harmed.

Recognition however 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 violated²⁶. Compensation for the material and moral injury is *a general principle of law*. The people of Iraq are entitled to a measure of satisfaction in the form of an official apology from all States that participated in the so-called “coalition of the willing”, other than some lukewarm political statements by US officials, admitting that one would not repeat the mistakes of the Iraq invasion.

Compensation

Justice to the people of Iraq must include compensation for the material and moral injury caused by the illegal invasion and occupation of their country.

Next to an official apology, material compensation should include rebuilding the infrastructure, institutions, schools and private property that were damaged, 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. The Iraqi health system must be restored 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.

The coalition of the willing must further offer financial and political support to refugees. Missing and disappeared persons must be located. Violations committed during the war and invasion must be uncovered and prosecuted. A United Nations Compensation Commission for the Iraqi victims should be established, and finally an UN Special Rapporteur for Iraq be appointed.

Conclusion

The war on Iraq was a tragedy of prodigious proportions, an act of aggression, and a betrayal of all values the United Nations stand for. The international community must remain consistent in its judgements, vigilant in the pursuit of the truth and committed to the enforcement of international law. It must stand up to its values and bring perpetrators to justice regardless of who they are, how many obstacles need to be overcome or how much time it takes. Otherwise injustice is one step closer from happening again.

Even if reality of course is often far from the ideal, ethical standards must not be lowered because of weaknesses or imperfections. They must remain the bedrock of international relations, if the community does not want to degenerate into nothing than a pawn in the hands of the powerful. The international community must assure that justice will be served and remedies be provided. In this sense there is no more time to waste to finally rectify the injustice inflicted on Iraq.

The NGOs signatories to this statement call on the United Nations in general and the Human Rights Council in particular to:

²⁴ 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

²⁵ 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

²⁶ 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

- Ensure that all human rights violations in Iraq during the sanctions and the invasion and occupation be investigated by an international independent body.
- Undertake all measures possible to end the current state of impunity within Iraq and with regard to the culpability and responsibilities of the occupying powers.
- 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.

*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), 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, NGOs without consultative status, also share the views expressed in this statement. NGO(s) without consultative status, also share the views expressed in this statement.