

This statement is on behalf of Nord-Sud XXI in relation to the report of the Special Rapporteur on the independence of judges and lawyers.

We strongly encourage all members of the Council to study Professor Despouy's findings concerning the independence of judiciary and lawyers in Iraq and it is to this aspect of his report that we address our comments.

Has any one in this room—even those of you who are not lawyers and who only watch courtroom dramas on television—ever seen a courtroom where the judges are chosen by and given their orders by a foreign occupying power, where the judges publicly declare in their courtroom that human rights are irrelevant, where foreign lawyers write judgments, where defense witnesses and defense lawyers are threatened, attacked, and killed *en masse* with the alleged collaboration the governing authorities? All of these occurrences characterize the Iraqi judiciary since March 2003 where it is estimated that dozens of people have been summarily, arbitrarily, and extrajudicially executed after unfair trials.

In no country in the world is the judicial process currently being abused to the extent that it is in Iraq by the United States and its collaborators. This has been the assessment of several mechanisms of this Council concerning trials in Iraq. For the first time since the creation of the Office of the High Commissioner for Human Rights has this officer of the UN felt compelled to write a brief pointing out the unfairness—the illegality—of judicial process in Iraq.

The United States and its collaborators know that these trials are unfair. They made them this way and they continue to willfully ensure that they are unfair. This is a war crime and crime against humanity. The third and fourth Red Cross Geneva Conventions make willfully participating in an unfair trial a war crime, in fact, a grave breach.

If the members states that are the Human Rights Council are serious about implementing human rights and combating immunity, as the High Commissioner herself urged this morning, there is no place deserving of more attention than Iraq. If you are concerned about ending violence in Iraq and restoring respect for the rule of law, you will urge the prosecution of the Americans and their collaborators who are ensuring unfair trials in Iraq.

We call upon member states and members of civil society to show their true commitment to human rights by calling for the prosecution of these individuals. We hope that the Special Rapporteur will follow up in his future reports on efforts to combat the immunity of those who are participate in the intentional destruction of the rule of law in Iraq.

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