



General Assembly

Distr.: General
26 February 2014

English only

Human Rights Council

Twenty-fifth session

Agenda item 4

Human rights situations that require the Council's attention

Joint written statement* submitted by Nonviolent Radical Party, Transnational and Transparty, non-governmental organization in general consultative status; France Libertes: Fondation Danielle Mitterrand, Women's Human Rights International Association, non-governmental organizations in special consultative status; Mouvement contre le racisme et pour l'amitié entre les peuples, 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.

[17 February 2014]

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

GE.14-11314



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The September 1st massacre occurred in Camp Ashraf (Iraq) has to be investigated by an independent body*

Facts

At dawn on September 1, 2013, a group of 101 asylum-seekers, recognized as protected person under the IVth Geneva Convention, were attacked in Camp Ashraf, while the Camp was surrounded by the security forces of the Iraqi Government. 52 asylum-seekers were killed and 7, six of them women, were abducted.

On September 3 UNAMI personnel visited Camp Ashraf. UNAMI declared: *“Inside the camp, the delegation witnessed 52 bodies in a makeshift morgue. All the deceased appeared to have suffered gunshot wounds, the majority of them in the head and the upper body, and several with their hands tied. The delegation also saw several damaged buildings, including one burnt, and was shown quantities of explosives.”*

Background

The victims of the massacre were members of the People’s Mojahedin Organization of Iran (PMOI), an Iranian opposition movement. Since 2012, about 3’000 residents of Camp Ashraf were forcibly relocated in Camp Hurriya (Camp Liberty), a substandard prison camp close to Baghdad to undergo Asylum processing.

Since the Iraqi authorities recovered the sovereignty over the country, the 3’200 PMOI’s unarmed people were subjected to five other attacks: on 28-29 July 2009 in Camp Ashraf (11 killed and hundreds injured), on 8 April 2011 in Camp Ashraf (36 killed and hundreds injured), on 9 February 2013 missile attack against Camp Liberty (8 killed and dozens injured), on 15 June 2013, missile attack against Camp Liberty (2 killed and dozens injured), on 26 December 2013, missile attack against Camp Liberty (4 killed and dozens injured) and 18 patients lost their lives due to lack of proper access to medical treatment.

On 15 April, 2011, commenting on the April 8 massacre Mrs. Pillay, UN High Commissioner for Human Rights, declared: *“These must be a full, independent and transparent inquiry, and any person found responsible for use of excessive force should be prosecuted.”*

Human Rights Council’s Special procedures positions on September 1st incident

On 9 December 2013, a group of United Nations independent experts expressed serious concern about the lack of information from the Iraqi authorities regarding any investigations into the 1st September attack. They wrote in a joint statement: *“We call upon the Government of Iraq to speed up the investigations in order to disclose the fate and whereabouts of the individuals,”* the United Nations Working Group on Enforced or Involuntary Disappearances said.

“International law clearly requires Governments to ensure that all allegations of killings are investigated in a prompt, effective and impartial manner, irrespective of who the perpetrator is,” the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Christ of Heyns, noted. *“Failure to do so is a violation of the International Covenant on Civil and Political Rights.”*

The group of experts stressed that *“The impunity with which these crimes have been committed is particularly flagrant given the severity of the offences and the alleged evidence of engagement by Iraqi forces in the commission of these crimes.”* In their view, *“the State has an obligation to exercise due diligence to prevent, protect, investigate, prosecute and punish all acts of violence, including those perpetrated against women, and to ensure their rights to be treated with dignity.”*

Mads Andenas, who currently heads the expert body said *“The Iraqi Government has a particular responsibility to protect the detainees against human rights violations such as the recent deaths and abductions, and must now instigate*

independent investigations, end the detention regime, and in the meantime provide effective protection to those who remain in detention.”

The UN Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas, having noted that this is the third time that the residents of Camp Ashraf have been subjected to physical assault, said *“I condemn the lack of proper investigation of the massacres and the impunity of those responsible for them.”*

The group of experts urged the Iraqi authorities *“to take all necessary measures to clarify the whereabouts of the missing individuals, guarantee their safety and rights, and prevent their extradition to Iran.”*

Call for an Independent investigation

On 24 September 2013, Spokesperson for the UN High Commissioner for Human Rights declared: *“On 3 September, we condemned the attack on Camp Ashraf in which at least 52 camp residents were killed, and called on the Iraqi government to quickly launch a full investigation to establish the facts and disclose the circumstances surrounding this attack. As three weeks have now passed, we reiterate our call on the Government to do its utmost to shed light on exactly what happened and to identify the perpetrators of these killings.*

He added: *“We welcome the fact that the remaining 42 residents of Camp Ashraf have in the meantime been safely transferred to Camp Hurriya, which is located near the Iraqi capital. However we are gravely concerned about allegations that seven former residents of Camp Ashraf, six of whom are reported to be women, were kidnapped during the events of 1 September.”*

“We join the UN Refugee Agency (UNHCR) and others in calling on the Government of Iraq to do all it can to ascertain the whereabouts of these seven people, to ensure their safety and prevent their involuntary return to Iran. If they have indeed been kidnapped, all efforts should be made to secure their release unharmed.”

EU’s High Representative on Foreign Policy and Security Affairs, Catherine Ashton, on September 2, 2013 declared: *“I condemn in the strongest terms the killings that took place at Camp Ashraf yesterday... The circumstances in which this brutal incident took place must be clarified and those found to be responsible must be held fully accountable... I fully support UNAMI’s decision, under its humanitarian mandate, to conduct an independent and transparent assessment of this tragic event. I call on all parties and particularly the Government of Iraq to facilitate UNAMI’s fact-finding efforts.”*

The US State Department spokesperson stated in separate statements on September 1: *“We support UNAMI’s efforts to conduct its own assessment of the situation and call on the Government of Iraq to fully support those efforts... we affirm the call by UNAMI for a full and independent investigation into this terrible and tragic event. Those found to be responsible must be held fully accountable.”*

On September 11, 2013, thirty five senior former US officials, including five military officers who were responsible for the protection of Camp Ashraf, wrote to Secretary of State John Kerry, stating: *“Asking the Iraqi government, which committed these atrocities, to perform an impartial investigation and make those results public is absolutely ludicrous. But we do not even have that pretense of objectivity. Prime Minister Maliki simply ignores the requests and accepts weak US and UN responses as a green light to commit further atrocities. This history of this Iraqi sponsored genocide and all of the facts we know confirm that additional massacres are imminent.”*

Senator Robert Menendez, Chairman of the Foreign Relations Committee of the US Senate, wrote on September 23rd to Iraqi Prime Minister: *“The United Nation assistant Mission for Iraq is conducting an investigation into the attacks. I urge your full cooperation with these efforts and ask you to act decisively to bring the perpetrators of this heinous act to justice as quickly as possible.”*

Mr. Struan Stevenson, President of the Delegation for Relations with Iraq in the European Parliament, declared on September 3: *“We urge the EU, the member states and Baroness Ashton to pressure Iraq to release the 7 hostages who were kidnapped on Sunday and to form an international fact finding committee for an independent and thorough investigation without the influence of Iraq and with the presence of lawyers and representatives of the residents and*

victims. *We believe that Europe can play a very important role in this regard.*” This request was supported by 150 other representatives of the European parliament.

Facts on Iraq’s role and efforts to wipe trace of crimes

Since taking over control of Camp Ashraf from Coalition Forces in 2009, the Iraqi Government has stationed over 1,200 soldiers and police officers in and directly outside Camp Ashraf. Therefore it has had absolute control over the Camp.

Tahar Boumedra, former Chief of the Human Rights Office at UNAMI, recently testified before the UN: *“Ashraf is [a] highly fortified camp where nobody...[can]... penetrate into the camp without the active preparation and support of the Iraqi Police and Army.”* Boumedra’s conclusion is supported by the statements of two former US military officials, Brigadier General (Ret.) David D. Phillips and Colonel (Ret.) Wesley Martin, both of whom have personal experience working in Ashraf.

In its decision of November 21, the Spanish court in a legal proceedings under universal jurisdiction announced: *“Killings, injuries, noise bombardment, denial of food and healthcare – nothing can happen at Ashraf without the knowledge of the Committee members and in particular of Faleh al-Fayad... In security matters throughout the country, including Ashraf, Faleh al-Fayad is the person in charge.”*

The Government of Iraq has stolen most documents and evidence of the crime to wipe traces. Many hours of video footage from Maliki forces in the attack on Ashraf, taken by mobile phones and cameras of those who have been executed with their hands bound behind their backs, exist but have been stolen by Iraqi forces. This evidence is clearly very essential to any impartial investigation.

After more than five months silence, on 11 February 2014 a representative of the Iraqi government confirmed to the representatives of the asylum-seekers that victims of September 1st have been buried. He gave no information about the time and place it took place. The secret burial of the bodies of the victims at an unspecified time and an undisclosed location in the absence of members of their families, as well as the absence and even knowledge of the UN representative who had officially received the bodies in Camp Ashraf on September 2, on the basis that before burial they would undergo autopsy by independent pathologist, is to destroy the evidence and prevent the course of justice.

Iraq’s failure to investigate

Five month after the massacre there is no evidence that any investigation has been conducted by the Government of Iraq as no report has been published on the issue. No one has been brought to justice regarding the September 1st massacre or previous attacks all of which have been described by independent jurists as crimes against humanity. Iraq has further failed to respond to inquiries from the UN Human Rights Special procedures.

However, on 26 November, 2013 Reuters quoted Haider al-Akaili, an Iraqi official, claiming *“The main thing that the investigations have revealed so far is that the Iraqi security forces were not involved in that attack and an unknown militant group was behind it.”* No report has been published and the claim has not been substantiated.

Conclusion and Recommendation

Tacking note of the fact that the September 1st was the fifth attack on the Iranian asylum-seekers and that a sixth attack has been conducted on December 26 on Camp Liberty;

Considering the high number of Iraqi security forces deployed around Camp Ashraf and Camp Liberty and the possible implication of those forces into the massacres;

Considering also that here is absolutely no evidence of any investigation by the Government of Iraq into the September 1st massacre or the previous and subsequent attacks on Camp Ashraf and Camp Liberty;

Taking note of the failure of the Iraqi Government to respond to the UN Human Rights Council's Special procedures in order to clarify the circumstances which led to the occurrence of crimes and to identify those responsible and to bring them to justice;

Considering that the Government of Iraq is incompetent to take any independent investigation on the massacres suffered by the Iranian asylum-seekers;

We urge the involved UN Human Rights Council's Special procedures, as independent experts, to initiate an independent investigation into the September 1st massacre and;

We urge the UN Human Rights Council to assign an Independent Commission of Inquiry to conduct an investigation on the massacres suffered by the Iranian asylum-seekers in Camp Ashraf on September 1st, 2013.

*The Association of Humanitarian Lawyers NGO(s) without consultative status, also shares the views expressed in this statement.