



Inter-Parliamentary Union

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Iraq

IQ/62 - Ahmed Jamil Salman Al-Alwani

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 146th session (Geneva, 24-27 January 2015)

The Committee,

Referring to the case of Mr. Ahmed Jamil Salman Al-Alwani, a former member of the Council of Representatives of Iraq, and to the resolution adopted by the IPU Governing Council at its 194th session (March 2014),

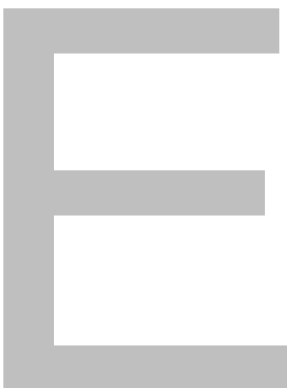
Taking into account the letter of the Speaker of the Council of Representatives dated 31 December 2013, the information provided by a member of the delegation of Iraq at a hearing held during the 130th IPU Assembly (Geneva, March 2014), and the information transmitted by the complainant and other sources of information,

Recalling that Mr. Al-Alwani was arrested on 28 December 2013 in Ramadi, in Al-Anbar Governorate, during a raid on his home carried out by Iraqi forces in the middle of the night; that the gunfight resulted in casualties, including deaths, among the security forces; that Mr. Al-Alwani's brother and members of his entourage were also killed; that the circumstances of the raid, including the reasons why the Iraqi forces conducted it, remain unclear,

Considering that Mr. Al-Alwani was detained, charged for terrorist-related crimes under the Iraqi Anti-Terrorism Law, and tried before the Central Criminal Court of Baghdad; that he was sentenced to death on 23 November 2014 and was given 30 days to appeal the ruling,

Considering the following information on file:

- The complainant has stated that Mr. Al-Alwani was arrested in retaliation for his outspoken support for the grievances of the Sunni population; Mr. Al-Alwani was a member of the Al-Iraqiya political block and was serving his second parliamentary mandate; he was known to be a prominent critic of the Iraqi Prime Minister at the time, Nouri Al-Maliki, and a supporter of the demonstrations that started in Ramadi in December 2013 in protest against the perceived marginalization and persecution of Iraqi Sunnis by the central Government; the Prime Minister at the time was said to have publicly announced on 22 December 2013 that these protests had become a "headquarters for the leadership of Al-Qaida" and to have warned that the security forces would intervene; Mr. Al-Alwani had held meetings with the provincial authorities on 27 December 2013, the day before his arrest, in an effort to defuse the tension between the governorate and the central Government;
- The complainant alleges that, at the time of the raid, Mr. Al-Alwani and his entourage had no way of knowing whether they were engaged in a confrontation with Iraqi Security Forces, a terrorist group, or an armed



militia, considering the precarious security situation at the time, and that the raid was conducted in the middle of the night; the complainant alleges that Mr. Al-Alwani's entourage only responded to the gunfire in self-defence;

- According to a member of the delegation of Iraq who appeared before the Committee at the 130th Assembly (Geneva, March 2014), the Council of Representatives had not received any information on the exact circumstances of, and grounds for Mr. Al-Alwani's arrest, which had been the subject of much speculation; there were, however, two opposing points of view in that respect within Parliament: (i) one was that he was a terrorist and was caught *in flagrante delicto* by the Iraqi forces; and (ii) the other was that he was attacked by the Iraqi forces because he had supported the demonstrations, and was accused of terrorism because he and his bodyguards opened fire to defend themselves when the house was broken into by unknown armed forces in the middle of the night;
- During the same hearing held at the 130th Assembly, the same member of the delegation of Iraq indicated that the Council of Representatives had, at that time, not been able to obtain any information on the charges and proceedings against Mr. Al-Alwani, or on his conditions of detention or his health, and did not know whether he had been subjected to torture; the member, however, stated that torture in detention was a long-standing problem in Iraq, which had been documented, including in reports of the Parliamentary Human Rights Committee; the member also noted that there were special procedures to respect under the Constitution and the laws of Iraq to arrest and prosecute members of parliament and that, regardless of the circumstances and grounds for his arrest, Mr. Al-Alwani was entitled to protection from torture and to a fair trial; he was then detained in Baghdad and had not been allowed to receive visits from family members, lawyers or from the parliamentary authorities pursuant to the terrorism law; a hearing had taken place in the main courtroom of Baghdad and the trial had been suspended after Mr. Al-Alwani requested the transfer of the proceedings to Al-Anbar Governorate according to the normal criminal procedure that provided him with the right to be tried in his province of origin, however, the member observed that this did not usually apply in terrorism cases and the current instability in Al-Anbar did not allow for such a transfer;
- According to the complainant, in the months following his arrest, neither Mr. Al-Alwani's relatives, nor his lawyers knew where he was being detained and were prevented from visiting him in detention; the complainant also stated that Mr. Al-Alwani was subjected to severe torture and forced to make false confessions that were used against him and led to his conviction;
- Mr. Al-Alwani was sentenced to death for murder and attempted murder as a result of the deaths of, and injuries sustained by, security forces during the gunfight; according to the complainant, he denied all charges and firmly denied opening fire on the security forces during the trial;
- According to the complainant Mr. Al-Alwani was denied the right to a fair trial and the right to mount an adequate defence; he was denied the right to defend himself, the right to choose his lawyer, and, on three occasions, the lawyers assigned to him were allegedly forced to resign by the judges for attempting to effectively present their defence arguments; one of his lawyers was harassed and arbitrarily arrested by Iraqi security forces, allegedly in reprisal for accepting to represent Mr. Al-Alwani; Mr. Al-Alwani was also denied the right to meet with his lawyer during his detention, and was therefore unable to prepare his defence; several international human rights non-governmental organizations have corroborated that Mr. Al-Alwani was denied the right to a fair trial and, in particular, the right to a defence, and they have urged for a stay of execution on these grounds;
- The complainant has not been able to confirm whether Mr. Al-Alwani has lodged an appeal, but it does not expect the appeal process to be conducted in compliance with international standards of due process, due to the lack of independence and impartiality of the judicial system,

Recalling that, according to the Speaker of the Council of Representatives at the time, as of late December 2013: (i) the Council of Representatives and its parliamentary investigative committee had been unable to visit Mr. Al-Alwani in detention or obtain any information on his place or conditions of detention, or even on his health; (ii) the Council of Representatives had not been apprised of the progress made in the investigation; (iii) Mr. Al-Alwani's parliamentary immunity had been violated and there were concerns with regard to respect for constitutional and legal safeguards; and (iv) Mr. Al-Alwani was protected by parliamentary immunity and should therefore be released,

Considering that no further information has been submitted by the Speaker of the Council of Representatives, or any other Iraqi authorities on Mr. Al-Alwani's situation, despite repeated requests,

Bearing in mind that the case comes against a political backdrop of violent internal conflict in parts of Iraq and that elections took place in 2014, resulting in the appointment of new parliamentary and executive authorities and bringing about what may now be a new stage of political compromise and enhanced national dialogue according to the United Nations,

Bearing in mind that the 2005 Constitution guarantees the right to life, security and liberty (Article 15), provides that homes may not be entered, searched or put in danger except by a judicial decision and in accordance with the law (Article 17.2), guarantees the right to a defence in all phases of the investigation and the trial (Article 19.4), and prohibits unlawful detention and detention in places not designed for that purpose (Article 19.12); that Article 60 of the Constitution guarantees parliamentary immunity and prohibits the arrest of a member during the legislative term of the Council of Representatives, unless the member is accused of a felony and the Council decides by an absolute majority to lift the immunity, or if caught *in flagrante delicto* committing a felony,

Bearing in mind that Iraq is a party to the International Covenant on Civil and Political Rights and to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; that the international community - through the reports of the United Nations Secretary-General, the United Nations Assistance Mission for Iraq, the Office of the High Commissioner for Human Rights, and the United Nations Special Rapporteur on the independence of judges and lawyers - has repeatedly voiced serious concerns regarding the lack of fair trial, the use of torture, the level of independence of the judicial system, and the use of the death penalty,

1. *Is appalled* that Mr. Al-Alwani was sentenced to death and *notes with deep concern* that there is serious doubt that the case complied with basic fair trial and due process guarantees; *remains concerned* that Mr. Al-Alwani may have been exposed to torture; and *calls on* the authorities to investigate these allegations without further delay;
2. *Urges* the judicial authorities to lift the death sentence passed against Mr. Al-Alwani, especially given the absence of clear and detailed information on the grounds of the raid and circumstances of the attack, the trial proceedings, and on the manner in which the investigation was carried out; *wishes to receive* further information on these matters, as well as a copy of the court decision and information on the legal avenues of redress still available to Mr. Al-Alwani, including whether he has appealed the conviction;
3. *Regrets* that the Council of Representatives has not responded to requests for information regarding the case; *trusts* that it has continued to undertake urgent efforts to ensure respect for Mr. Al-Alwani's rights and to closely monitor the situation; *is eager to know* whether, as the former Speaker of the Council of Representatives suggested, a visit by the Council or any of its committees has taken place; *stresses* that the Committee strives to foster dialogue and cooperation with the authorities of Iraq, first and foremost with the Council of Representatives, its primary interlocutor pursuant to its procedure; therefore, *sincerely hopes* that constructive dialogue is resumed shortly in the pursuit of a satisfactory settlement of the case;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Prime Minister, the Higher Judicial Council, the complainant, and any third party likely to be in a position to supply relevant information;
5. *Decides* to continue examining this case.