

PUBLIC

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UA 145/06 Death penalty/fear of imminent execution

IRAQ **Shihab Ahmad Khalaf (m)**
'Abdullah Hana Hermaz Kelanah (m)

The two men named above have been sentenced to death for "terrorist" offences. Their sentences have been sent to the Iraqi Presidential Council for ratification, and they are in imminent danger of execution. At least one of them allegedly confessed under torture.

The Iraqi authorities executed 13 people on 9 March, reportedly for "terrorist activities".

Shihab Ahmad Khalaf, who had been a Colonel in the Iraqi army while Saddam Hussein was in power, was arrested on 30 January 2005 by US and Iraqi forces at the al-Sabereen mosque in the northern city of Mosul. A number of other people suspected of involvement in "terrorist acts" were reportedly arrested with him. The second man, 'Abdullah Hana Hermaz Kelanah, is believed to have been arrested at the same time. Both were accused of being leading figures in a terrorist group.

During interrogation Shihab Ahmad Khalaf was reportedly beaten with cables and forced to confess to being a leading member of a terrorist group. His confession was broadcast on the programme *Terrorism in the Grip of Justice* by the TV channel al-Iraqiyya. In the programme it was alleged that he was a leading figure in a terrorist group, and had spent some time at a training camp in Afghanistan and Pakistan, including the whole of the year 2001. During that time, however, Shihab Ahmad Khalaf had reportedly been living in the Netherlands, where he and his family had been granted asylum. They had fled Iraq just before the 1991 Gulf War, and returned in October 2003 and settled in Mosul.

Shihab Ahmad Khalaf was brought before an investigative judge in the capital, Baghdad, in March 2005. He denied the charges and said that he had confessed under duress. The judge reportedly ordered further investigation into the case: at the end of that month Shihab Ahmad Khalaf was brought before the same judge, who asked him to sign a confession. He was not allowed to consult with lawyers until the end of September 2005; his first court hearing was due to take place on 11 October. The hearing was postponed several times and eventually took place on 23 November. It only lasted 45 minutes, and ended with the Iraqi Central Criminal Court sentencing Shihab Ahmad Khalaf and 'Abdullah Hana Hermaz Kelanah to death under Article 194 of Iraq's 1969 Penal Code. The charges against the two men included "threatening security and stability, formation of armed groups and using cars for the purpose of bomb attacks". During the court session Shihab Ahmad Khalaf reportedly told the judge that he had confessed after the investigator threatened to assault his wife and tortured him into reading a scripted confession on the TV programme broadcast by al-Iraqiyya. His lawyers reportedly presented documents proving that he had been in the Netherlands during the whole of 2001. The judge, however, reportedly refused to accept the documents, or to consider a request by the lawyers to seek help from the Iraqi Foreign Affairs Ministry to confirm that Shihab Ahmad Khalaf had been in the Netherlands in 2001. The case was referred to the Court of Cassation, which considers appeals only on limited grounds, including procedural irregularities at trial and mistaken interpretation of the law. The Court upheld the death sentences, and passed them to the Presidential Council for ratification.

BACKGROUND INFORMATION

The interim government of Iraq reinstated the death penalty in August 2004, for crimes such as murder, drug trafficking and kidnapping. They justified this as a response to the deteriorating security situation. Before he

was selected as President in April 2005, Jalal Talabani had declared that he was opposed to the use of the death penalty, in interviews with national and international media.

Executions had been frequent during the government of Saddam Hussein, which was overthrown by the invasion of the US-led coalition in March 2003. After the invasion the country was first run by the Coalition Provisional Authority (CPA), which suspended the death penalty in June 2003. On 28 June 2004 the CPA handed over power to an Iraqi interim government.

Since the re-imposition of the death penalty scores of people have been sentenced to death. The first executions were carried out on 1 September 2005, when three people were executed.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing concern that Shihab Ahmad Khalaf and 'Abdullah Hana Hermaz Kelanah are facing imminent execution;
- expressing concern that Shihab Ahmad Khalaf appears to have been convicted on the basis of confessions extracted under torture and that the court reportedly refused to consider important documents presented by his lawyers;
- urging the authorities to have the two men retried in accordance with international standards for fair trial, without recourse to the death penalty;
- calling on the authorities to commute all death sentences, and abolish the death penalty in law and practice.

APPEALS TO: Fax numbers and e-mail addresses for the Iraqi authorities are not available. Please send appeals via the Iraqi embassy or diplomatic representative in your country, asking them to forward your appeals to:

President of the Republic of Iraq
Jalal Talabani

Salutation: Your Excellency

Prime Minister and Acting Minister of Interior of the Republic of Iraq
Nuri Kamil al-Maliki

Salutation: Your Excellency

Minister of Foreign Affairs of the Republic of Iraq
Hoshyar Zebari

Salutation: Your Excellency

Ask the Iraqi embassy or diplomatic representative to send copies to the Human Rights Minister, Wajdan Mikhail.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 5 July 2006.