


Individual Rights & Responsibilities Section

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FROM: Erik Guenther, Chair
Individual Rights and Responsibilities Section
State Bar of Wisconsin

To Whom It May Concern:

The Individual Rights and Responsibilities Section of the State Bar of Wisconsin (the IRR) has received information that an Iraqi Tribunal has convicted and intends to put three young Iraqi women, Wassan Talib, age 31, Zeynab Fadhil, age 25, and Liqa' Omar Muhammad, age 26, to death in the very near future.

The IRR and the State Bar of Wisconsin have long opposed the death penalty for any reason. Furthermore, both the IRR and State Bar of Wisconsin acknowledge that all accused individuals should receive access to legal counsel. Based on the information it has received, the IRR joins with groups like Amnesty International and the International Association of Democratic Lawyers to demand that the Iraqi government immediately repudiate its intention so execute these women. The following reasons support this demand:

1. We have received information that these three were denied legal counsel and that they have denied the charges against them. Without legal counsel to present their cases, they have been denied the fundamental right to a fair trial. This fact alone would make their executions summary and extra-judicial. Iraq and the United States are also bound by International human rights law which includes Article 14 of the International Convention on Civil and Political Rights, which guarantees the right to a fair trial.
2. The law under which these women were charged, Article 156 of the Iraqi Penal Code, reads: "Any person who willfully commits an act with the intent to violate the independence of the country or its unity or the security of its territory and that act, by its nature leads to a violation, is punishable by death". This law cannot apply in the context of an occupation where the crimes they were charged with were related to the resisting the occupation of Iraq by the United States; instead, international law applies, not the Iraqi Penal Code.
3. As international law affirms the legitimacy of the struggle of peoples for independence, national unity, and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle, (UN General Assembly Resolution 37/43 adopted 3 December 1982) it is illegal for the Iraqi government to have tried these individuals in an Iraqi Tribunal, when if they

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were to be detained they should have been considered Prisoners of War and provided all of the protections of the Third Geneva Convention. Under this convention they cannot be tried and executed summarily.

4. Iraq and the US are bound by international humanitarian law. Whether these women are treated as combatants or civilians they have a right to independent legal counsel. (Article 99 of the Third Geneva Convention, and Article 113 of the Fourth Geneva Convention).

5. Furthermore, these women are being held in Baghdad's Al-Kadhimiya Prison. Two of them have small children, and the one year old daughter of Liqa was born in prison. While the international community overwhelmingly rejects the use of the death penalty in all cases, Article 3 of the UN Safeguards Guaranteeing Protection of the Rights of those facing the Death Penalty, (ECOSOC Resolution 1984/50, adopted 25 May 1984) states that the death penalty cannot be imposed on new mothers, and Article 5 states that the death penalty may not be imposed unless the legal process is competent, and all due process rights are safeguarded and Article 6 of the UN Safeguards demands that anyone sentenced to death must have the right of appeal to a higher court, and Article 8 makes it illegal to execute anyone while an appeal is pending.

As stated above, the Individual Rights and Responsibilities Section of the State Bar of Wisconsin requests that the Iraqi government rescind its decision to execute these women. Furthermore, the IRR requests that they be appointed legal counsel at no expense to the women.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.