

The Fraudulent Frame-Up of Iraqi Human Rights Activist and MP Al Dainy

By [Inter-Parliamentary Union](#)

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In-depth Report: [IRAQ REPORT](#)

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CASE No. IQ/59 - MOHAMMED AL-DAINY - IRAQ

Resolution adopted unanimously by the IPU Governing Council at its 187th session

(Geneva, 6 October 2010)

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Mr. Mohammed Al- Dainy, a member of the Council of Representatives of Iraq at the time of the submission of the communication, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/187/12(b)-R.1), and to the resolution adopted at its 185th session (October 2009),

Considering the following information on file,

- Mr. Al- Dainy, a member of the National Dialogue Front, was elected in March 2006 to the Council of Representatives of Iraq (legislative period 2006-2010); as an MP, he concentrated on human rights issues, investigating in particular conditions of detention in Iraq and the existence of secret detention facilities; in October 2008, he shared the information he had gathered with competent United Nations human rights bodies in Geneva;

- On 22 February 2009, the spokesperson for Baghdad's military security command accused Mr. Al- Dainy of masterminding the 12 April 2007 suicide bombing in parliament, which killed a member of parliament; on 25 February 2009, parliament lifted his immunity; earlier the same day (25 February), a plane bound for Jordan with Mr. Al- Dainy and other members of parliament on board had been returned and an attempt made to arrest Mr. Al- Dainy; however, failing an arrest warrant and the lifting of immunity, no arrest took place; Mr. Al- Dainy subsequently left the airport in the company of another member of parliament and disappeared; fears that he might have been the victim of an enforced disappearance proved to be unsubstantiated when Mr. Al- Dainy himself declared in an interview with a private TV

channel that he had gone abroad for fear of his life;

- Ten members of Mr. Al- Dainy's family and another nine members of his staff (mainly escorts) were arrested in different stages during February 2009, and detailed information has been provided by the source about the circumstances of their arrest without warrants, their ill-treatment and the ransacking of their homes;

- Mr. Al- Dainy was accused of the following crimes:

(a) bombing of the Parliament;

(b) launching mortar shells into the international zone during the visit of the Iranian President and murdering one of the inhabitants of the neighbourhood from where the shells were launched;

(c) detonating car bombs;

(d) using his convoy of vehicles to carry the weapons that were used for crimes;

(e) murdering two jewellery store owners in the Al-Mansour area;

(f) killing 115 people from Al-Tahweela village who were buried alive;

(g) fabricating arrest warrants;

(h) murdering seven persons in the Al Yarmuk area;

(i) murdering Captain Ismail Haqi Al-Shamary; on 24 January 2010, Mr. Al- Dainy was sentenced to death in absentia; the verdict, a copy of which was provided to the Committee, consists of a little more than one page (French translation), contains two paragraphs dealing with the suicide bombing in parliament and one with the bombing of the Green Zone, six lines on storing of weapons, the founding of a terrorist organization linked to the Baath party, and to prove that Mr. Al- Dainy committed these crimes, it relies heavily on the testimonies of Riyadh Ibrahim, Alaa Kherallah, Haydar Abdallah and a secret informant; it does not refer to any of the other accusations,

Considering in this respect the following:

- On 22 February 2009, Mr. Al- Dainy's nephew and secretary, Ryad Ibrahim Jasem, and the head of his security detail, Mr. Alaa Kherallah Al Maliki, appeared on the public TV channel Al Iraqia and confessed to belonging to a terrorist organization set up by Mr. Al- Dainy; they appeared to be tired and drugged and visibly under duress; on 14 September 2009, they were reportedly given a life sentence at the closure of a hearing which reportedly lasted just a few minutes; an appeal is reportedly still pending;

- On 22 June 2009, Mr. Mahmoud Karim Farhan, a relative of Mr. Al- Dainy arrested on 22 February 2009, was released; he had been held in incommunicado detention in Baghdad Brigade Prison in the city's Green Zone; in July 2009 he publicly testified to the circumstances of his arrest and that of other bodyguards and the torture inflicted on them to testify against Mr. Al- Dainy;

- On 10 May 2010, Baghdad Juvenile Court released Mr. Omar Ibrahim Jasem on grounds of insufficient evidence; on his release, he testified that he and others had been tortured while

in detention to make them testify against Mr. Al- Dainy; he attributes responsibility for his arrest, detention and torture to Prime Minister Al-Maliki; a medical certificate attesting his torture has been provided;

- On 4 August 2009, the Mayor and notables of Kanaan district certified that Army Captain Haqi Ismael Al-Shamary, whom Mr. Al- Dainy is accused of having killed, was in fact alive and working normally,

Considering that reports published in April 2010 by the Iraqi Human Rights Ministry reveal the existence of secret detention centres, some at the time under the direct control of Prime Minister Al-Maliki, and the routine practice of torture in those secret prisons,

Considering that the joint study on global practices in relation to secret detention in the context of countering terrorism of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention, and the Working Group on Arbitrary or Involuntary Disappearances (A/HRC/13/42), presented to the United Nations Human Rights Council at its 13th session, has a chapter on secret detention centres in Iraq and mentions explicitly the group of people arrested in connection with accusations against Mr. Al- Dainy and held in secret detention in a prison in the Green Zone run by the Baghdad Brigade; it describes the torture inflicted on them (beating with cables, suspension from the ceiling by either the feet or the hands for up to two days at a time, electroshocks, black bags being put over the head to suffocate them, plastic sticks introduced into the rectum, threat of rape of family members) and their being forced to sign and fingerprint pre-prepared confessions,

Bearing in mind that the 2005 Constitution of Iraq contains a human rights catalogue guaranteeing the following fundamental rights: Article 15: right to life, security and liberty, Article 17 (para. 2): sanctity of the home; homes may not be entered, searched or put in danger except by a judicial decision and in accordance with the law; Article 19 (para. 12): prohibition of unlawful detention and detention in places not designed for it,

Bearing in mind also that Iraq is a party to the International Covenant on Civil and Political Rights (ICCPR), which it ratified in 1971; that the Covenant guarantees the right to life and security, prohibits torture, arbitrary arrest and detention and stipulates fair trial guarantees; noting in this respect the concerns which the United Nations Special Rapporteur on the independence of judges and lawyers has voiced on many occasions regarding the observance of those rights in Iraq,

1. Considers that, in the light of the above, there can be no doubt that Mr. Al- Dainy was sentenced to death at the closure of a procedure which can only be termed a travesty of justice;

2. Calls on the authorities to quash this iniquitous judgment forthwith and to fully rehabilitate Mr. Al- Dainy;

3. Calls on the newly elected authorities, in particular the parliament, to ensure the rehabilitation of their former colleague who was punished for having revealed the existence of those secret detention centres and to make every effort to eradicate the practice of torture in Iraq;

4. Requests the Secretary General to convey this resolution to the parliamentary authorities and the competent governmental authorities,
5. Requests the Committee to continue to examine this case and to report to it at its next session, to be held during the 124th IPU Assembly (April 2011).

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