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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by International-Lawyers.Org, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 May 2016]

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

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American Citizen Illegally Detained And Tortured By US And Iraq, Shawki Ahmed Omar, Now Subjected To An Unfair Trial By Iraqi Authorities

On 29 May 2016, ignoring repeated demands by the United Nations that Shawki Ahmed Omar be released because he was detained and being held illegally, Iraqi authorities willfully subjected him to an unfair trial.

In the proceedings held at the Al-Sa'a Courthouse in Baghdad, Judge Suhail Al-Hamadani relied on exclusively on hearsay evidence provided in written testimonies, but refused to allow the witnesses, one of which was present at the courthouse in custody, to be heard in court. The right to confront witnesses against oneself is a fundamental human right that is protected by article 14 the International Covenant on Civil and Political Rights to which Iraq is a party. Paragraph 3 of this article states that "everyone shall be entitled to the following minimum guarantees, in full equality ... (e) [t]o examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him." Shawki both requested the Court to produce the witnesses and attempted to call one of the witnesses on his own behalf as that witness had recanted his testimony in a sworn statement that was provided to the Court. The statement had been made under torture carried out by the United States military.

The saga of Shawki, an American citizen who was living in Virginia, has been coloured by his torture and the torture of his young pregnant wife that caused her daughter to be born with a severe disability.

After having been detained in 2004 by the United States military cooperating with an informant who owed Shawki money and was trying to avoid his debt, the United States held and tortured American citizen Shawki for four years. During this time the United States military collaborated with the United States justice system to lie to the United State Supreme Court by stating that they had not tortured Shawki and that he would not be tortured if turned over to the Iraqi authorities. At the time, the US military had already tortured him and his wife and the US military was aware that he would be tortured if turned over to the Iraqi authorities. After he was officials turned over in 2010 he was tortured and has been repeatedly tortured during his illegal detention since that time by the Iraqi officials who have publicly claimed are cooperating with the United States government.

In the aftermath of the proven allegation of widespread torture that was undertake by the United States military and other US government actors during and after its illegal invasion of Iraq, it is striking that this case involving an American citizen remains unresolved and allegations continue to be made by the Iraqi government, a US ally, that the United States is cooperating to ensure the continued illegal detention, torture and unfair trial of Shawki.

This is not the first unfair trial to which he has been subjected. After being held for more than five years with charge and being turned over to the Iraqi authorities Shawki was charged with the crime of entering Iraq illegally. He was not able to defend himself because the United States military that had confiscated his passport when they detained him refused to return it to him. The passport contains exculpatory evidence of his legal entry into Iraq.

This violation of an American citizen's human rights by his own government is an unparalleled example of lack of respect for the most fundamental principles of international human rights law.

The willful subjecting of a prisoner to an unfair trial, arbitrary detention and torture are serious violations of human rights that also incur individual criminal responsibility of the actors. We urge the Human Rights Council and/or each Member State to take actions to ensure that the Iraq and United States governments are held responsible for its violations of human rights and that the individuals involved in these violations human rights are brought to justice.