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IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”

**Written statement* submitted by Nord Sud XXI,
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.

[30 May 2007]

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

We welcome the report of the Special Rapporteur on the independence of judges and lawyers. This report and other recent reports from Professor Leandro Despouy evidence the serious threat to the rule of international law in some parts of the world and by some countries. We strongly support the Special Rapporteur's work and hope that the Human Rights Council membership will do the same.

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In many parts of the world the rule of law is under siege by individuals and governments who act with immunity, intentionally flouting consensually agreed upon rules of international law. Nowhere is this more true than in Iraq. Not only has the rule of law been trampled upon by the illegal use of force and occupation of that country, but the most basic foundations of justice have been destroyed by a judiciary that publicly admits it has no respect for international law.

For example, every independent legal expert who has examined the trial of former Iraqi President Saddam Hussein and his colleagues condemned the trial as unfair and a violation of international law. These include not only the Special Rapporteur, not only the High Commissioner for Human Rights, and not only the UN Working Group on Arbitrary Detention, but also a number of non-governmental organizations.

Every reputable international expert that reviews any trial before the Iraqi Special Tribunal or the Iraqi criminal courts in general, must agree with the aforementioned experts: the Iraqi judiciary is travesty of justice.

Nevertheless, thumbing its nose at the rule of law and at the members of the Council, the United States and Iraq authorities willfully continue the unfair trials and willfully carry out the sentences of these unfair courts, even the death sentences that are summarily handed down.

They do this despite the fact that such executions violate the right to life—a *jus cogens* norm of international law—and the provisions of international humanitarian law. They do this despite the fact that these executions also constitute crimes against humanity.

The act of willfully denying a civilian or a prisoner-of-war a fair trial is a war crime. It requires that all states investigate, search for, arrest, and punish all the individuals involved in these crimes regardless of their official or unofficial capacity. Many of these officials have been named. Yet, not one Iraqi, British, Canadian, or American behind the willfully unfair trials in Iraq has been prosecuted.

In fact, the Iraqi, American, and British lawyers who fashioned the illegal courts, ensured they were not impartial, and ensured that they were not independent or fair, have, in some instances, continued to commit their war crimes with impunity.

This impunity is fueling the violence in Iraq. This impunity is a major obstacle to peace and reconciliation in Iraq. This impunity threatens to debilitate the rule of international law.

Neither the Council as a collective body nor its individual Member States can afford to allow this to happen. But to prevent it they must have the courage to effectively urge action.

First, they must ensure that the unfair trials in Iraq are immediately stopped and that all sentences of death are commuted. These actions must be taken to ensure that serious violations of the right to life and the right to a fair trial are ended.

States and the Council can contribute to accomplishing this by adopting unambiguous positions condemning the Iraqi, American, Canadian, and British officials who participated in unfair trials in Iraq.

Second, action must be taken against the perpetrators of the international crimes who contribute to the unfair trials. While these individuals should be guaranteed full rights of due process and fair trial, they should be investigated and prosecuted. Justice must be done and must be seen to be done.

Governments both inside and outside of the Council and non-governmental organizations can contribute to achieving this important goal by calling for the prosecution of the individuals who have contributed to unfair trials in Iraq.
