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Summary record of the 3847th meeting

Held at the Palais Wilson, Geneva, on Monday, 7 March 2022, at 3 p.m.

Chair: Ms. Pazartzis

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Sixth periodic report of Iraq (continued) (CCPR/C/IRQ/6; CCPR/C/IRQ/Q/6;
CCPR/C/IRQ/RQ/6)

1. *At the invitation of the Chair, the delegation of Iraq joined the meeting.*
2. **The Chair** invited the delegation to continue replying to the questions raised by Committee members at the previous meeting.
3. **Mr. Mussa** (Iraq), speaking via video link, said that the Ministry of the Interior was responsible for policing demonstrations. The right to demonstrate was guaranteed under the Constitution. Challenges were occasionally encountered in ensuring that demonstrations remained peaceful. For example, the location of a demonstration was not always communicated to the authorities in advance. Furthermore, some demonstrators attempted to sow discord. Law enforcement officials received human rights training informed by the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Breaches of the rules governing the conduct of law enforcement officials were objectively and transparently investigated. The Ministry of the Interior had ensured that law enforcement officials were aware of their obligation to use force in a manner consistent with the rights enshrined in the Constitution and international human rights standards. The use of force therefore remained an exceptional measure in that context.
4. **Ms. Barakat** (Iraq), speaking via video link, said that the General Directorate for Yazidi Female Survivors' Affairs had been established under the Ministry of Labour and Social Affairs to support all female survivors of crimes committed by Da'esh, including those who were victims of human trafficking and forced marriage. According to an international investigation team, the crimes perpetrated by Da'esh in Sinjar amounted to an act of genocide. On 3 August 2014, Da'esh had entered the town and had kidnapped around 6,500 Yazidis. Although over 3,500 Yazidi women and children had been liberated, over 2,700 remained missing. In addition, nearly 100 mass graves had been discovered in the town. The General Directorate provided practical and psychological assistance to survivors, supported ongoing criminal investigations and sought to determine the fate of those who remained missing. Operations were being carried out to exhume the remains of victims for identification purposes. The General Directorate was drawing up a plan of action on the collection of data on survivors. In addition, efforts were being made to facilitate their reintegration into society.
5. **Mr. Al-Obaidi** (Iraq), speaking via video link, said that submission of the sixth periodic report had been delayed because the Council of Ministers had requested some amendments to the draft. Nevertheless, the report had been submitted less than a year late; other States parties to the Covenant submitted reports after a much longer delay. There had been no political interference in the drafting of the report.
6. There was no discrimination on the basis of sexual orientation in Iraq. Offences motivated by sexual orientation were considered unacceptable, and offenders were prosecuted.
7. The bill on the protection of persons from enforced disappearance was currently before the Council of Ministers, which would approve the final version. The delay in the enactment of the bill could be attributed to the need to review and, where necessary, amend other legislative texts. An amendment to the federal Counter-Terrorism Act had been drafted. The Government considered that the definition of terrorism under national law was broadly in line with the definition accepted at the international level. Terrorist offences were much more serious than, for example, murder, since they were aimed at undermining peace itself and targeted specific religious groups.
8. The appointment of new members of the Iraqi High Commission for Human Rights had been delayed pending the outcome of the process under way to elect a new President of Iraq and a new President of the Council of Ministers. The members of the High Commission had not been threatened and had been able to continue their work until the end of their term

of office. In the context of the 2019 demonstrations, the High Commission had helped to shape the Government's response and to promote accountability. Criminal proceedings had been brought against a number of persons who had committed offences against demonstrators, and death sentences had been handed down in some cases.

9. The anti-torture bill was under consideration by the Council of State. The definition of torture contained in the bill had been drafted in the light of comments received from the United Nations Assistance Mission for Iraq (UNAMI). The High Commission was competent to receive complaints. However, it had not been possible to introduce the legislative amendments necessary for accession to an individual complaints mechanism. Special commissions had recently been established to investigate enforced disappearances during the demonstrations.

10. In Iraq, issues relating to personal status were not governed by sharia. As was clear from the judgments of the Federal Supreme Court, sharia was in line with the principles of human rights, which were explicitly mentioned in the Constitution. Under Iraqi law, the death penalty could be imposed only for very serious offences. Legislation relating to the death penalty was drafted with due regard to the relevant international standards.

11. **Mr. Alalawi** (Iraq) said that, while his country certainly had a heavy caseload of missing persons and enforced disappearances, the Committee seemed to be relying on statistics dating back decades, including the period up to 2003. The Government was making efforts to resolve as many missing person cases as possible. In 2021, the Government and the International Commission on Missing Persons had met to discuss the establishment of a new national mechanism to clarify the fate of missing persons and a central record of such persons. Additional resources would be allocated to support those efforts, and the Government would continue to work with the International Commission. The number of cases of enforced disappearance, however, was much lower than the number of missing person cases. There were currently around 500 cases of enforced disappearance, and some of those did not meet the definition of enforced disappearance under international law. Some of the cases involved persons known to be members of Da'esh or to have left the country.

12. The references to Islam in article 2 of the Constitution should be interpreted in the context of that provision as a whole. Paragraph 1, which stated that Islam was a foundational source of law, struck a clear balance between the established tenets of Islam, the principles of democracy and the rights and basic freedoms enshrined in the Constitution. Paragraph 2 guaranteed the right to freedom of religious belief and practice for all.

13. **Mr. Yigezu** said that he wished to know what steps would be taken to grant the Iraqi High Commission for Human Rights the power to carry out unannounced visits to prisons and other places of detention, and what efforts were made to follow up on the recommendations issued by the High Commission and other organizations after their visits. He would appreciate information on bodies other than the Department of Corrections and the Department of Juvenile Corrections that had official powers of detention, the conditions under which they could exercise those powers and the location of their detention sites. Would independent monitoring bodies be granted access to those sites? In that connection, it would be useful to learn whether the State party would consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

14. Concerning the urgent need to reduce overcrowding in prisons and other places of detention, he wondered if the State party was considering the possibility of using alternatives to detention, particularly in the case of pretrial detention.

15. He wished to know how many deaths had occurred in custody over the previous five years, how many investigations had been launched, prosecutions carried out and convictions secured in response to such deaths, and what measures had been taken to investigate deaths in the prison system. In that connection, information on the investigations carried out by the Standing Investigations Committee would be welcome. He would be grateful if the delegation could comment on reports that 24 prisoners had died at Al-Hoot prison.

16. He would appreciate specific information on the vaccination of detainees against the coronavirus disease (COVID-19). It would be helpful to know whether the COVID-19

vaccination was offered to detainees and whether those at high risk of developing complications from COVID-19 as a result of underlying medical conditions received special protection. In addition, he wondered whether staff members of administrative and correctional facilities were prioritized in the context of vaccination campaigns and what percentage of them had received one or two doses of a vaccine.

17. **Mr. Muhumuza** said that he would appreciate updates on the work of the committee of retired judges that had been established to review the compliance of certain domestic laws with the State party's international obligations and on the efforts to enact a law against domestic violence. It would be helpful to know whether the Department for the Empowerment of Women engaged in any awareness-raising activities. He wished to know how effective applications for habeas corpus were, whether investigating judges carried out their duties impartially and expeditiously, and whether the failure of investigating judges to act promptly could lengthen detainees' periods of detention. He would be interested to find out whether any legislative steps had been taken to reduce periods of pretrial detention and safeguard the rights of detainees and, if so, how effective those steps had proved to be in practice.

18. **Ms. Sancin** said that it would be helpful to know how many members of Da'esh had been prosecuted, convicted and sentenced for sexually assaulting Yazidi women and girls. She wished to learn about the findings of the high-level committee set up in the Ministry of the Interior to investigate alleged human rights violations by members of the Emergency Response Division and to find out whether the findings had been shared with the victims. Information on the impact of the National Counter-Terrorism Strategy would also be appreciated.

19. She wished to know how many camps for internally displaced persons remained open and whether the closure of such camps had resulted in secondary displacements. She would appreciate an update on the situation of internally displaced persons and on the impact of the government measures put in place to provide them with a durable solution. She would be interested to learn how the State party ensured compliance with Covenant rights during security clearance procedures for internally displaced persons wishing to return home and what criteria were used to assess applications for such clearance. She wished to know whether the right of internally displaced persons to vote was restricted in any way.

20. She would appreciate information on any steps taken by the State party to safeguard the rights of women and children with perceived ties to Da'esh who were living in camps for internally displaced persons, as their rights were reportedly often violated on the basis of those perceived ties. She would like to know if any steps had been taken to prosecute perpetrators of sexual offences against women and girls in those camps. She also wished to know how many internally displaced persons had been issued with identity cards and how many remained without them. She would appreciate further information on the situation of the 1,700 Yazidi women being detained in Iraq by members of Da'esh and on any measures that had been taken or any action plans that had been prepared to free those women.

21. **Mr. Bulkan** said that he wished to know how many people had been convicted of committing crimes against lesbian, gay, bisexual, transgender and intersex persons as part of the judiciary's efforts to ensure that the perpetrators of such crimes were brought to justice. He also wished to know what specific measures those efforts entailed.

22. He would welcome an amendment to the definition of terrorism under the anti-terrorism legislation that would remove any reference to damage to property, as such a reference extended the scope of the law to less serious conduct. Family members of victims of enforced disappearance were perhaps reluctant to report the disappearances because they feared that the Government would assume that the missing individuals had departed to engage in terrorist activities.

23. As there were reports that judges in Iraq were often subject to outside influence, including from political parties, he wished to know if there were any strategies in place to address the lack, or perceived lack, of judicial independence. He also wished to know what criteria and procedures were used to appoint judges, whether an independent body was in charge of the appointment process and whether there were safeguards to keep the executive branch from interfering in the appointment, disciplining or removal of judges. It would be

helpful to know how Iraqi law defined judicial misconduct. He would appreciate further details on how the disciplinary committee of the Supreme Judicial Council operated. How many cases of judicial misconduct had it investigated in the reporting period, what had been the results of the investigations, how many judges had been held accountable for misconduct and what types of judicial cases had been involved?

24. He would appreciate further information on the directives issued by the Supreme Judicial Council with respect to tribal disputes and rulings and an explanation of how they prevented the abuse of tribal authority. He wished to know whether decisions of tribal courts could be appealed through the formal justice system and, if so, whether there were any mechanisms to protect individuals who lodged such appeals from reprisals. It would be helpful to know what steps the State party was taking to ensure that tribal courts did not deepen divisions within society.

25. He wished to know how the State party planned to ensure that the procedural rights of detainees, including those being held on terrorism-related charges, were strictly observed in practice. He also wished to know whether the State party planned either to close the secret prisons that were said to be controlled by militias, political parties and tribal factions or to bring them under the control of the Government.

The meeting was suspended at 4 p.m. and resumed at 4.10 p.m.

26. **Mr. Abo Senah** (Iraq), speaking via video link, said that representatives of a variety of bodies, including UNAMI, the International Committee of the Red Cross and consulates, were able to visit detention centres. No prison deaths had occurred under unusual circumstances. When a prisoner died, the body was handed over to the police and a report was prepared by the medical examiner. All stakeholders, including the competent court, were informed of the prisoner's death and a full investigation was carried out. Prosecutors had opened cases into deaths at the prison of Nasiriyah, and the courts had taken the necessary steps once the medical reports that had been ordered had been received.

27. New prisons had been built and a number of existing prisons had been renovated in order to ease prison overcrowding. For example, a 3,000-bed prison had been opened in 2020 and new buildings had been added to the prison in Baghdad, which could now house 9,000 prisoners. Ten more prisons would be built under a strategic plan prepared by the Ministry of Justice for the period from 2023 to 2026.

28. The Ministry of Justice had assembled a unit comprising the directors of all corrections facilities to raise awareness of COVID-19. To mitigate the spread of the virus, the Ministry of Justice coordinated with the Ministry of Health to obtain posters, masks and other supplies and with the Ministry of the Interior to have all the prisons cleaned. Prisons were disinfected daily. Restrictions were placed on visits and the movement of prisoners within prisons. Rooms were set up where prisoners awaiting test results could quarantine. All prisoners and prison staff had been vaccinated against COVID-19 and anyone entering a prison must show proof of vaccination.

29. **Mr. Abdullah** (Iraq), speaking via video link, said that the Al-Muthanna detention centre was run by the federal authorities with the involvement of the intelligence and security services. Representatives of the Ministry of Justice supervised all proceedings and ensured that procedural safeguards were respected during interrogations. The centre was visited by representatives of the Human Rights Directorate of the Ministry of Defence, other human rights bodies, UNAMI, the International Committee of the Red Cross and embassies.

30. The Iraqi High Commission for Human Rights had asked that the management teams of all detention centres be informed of and follow a human rights-based approach in their work. A report prepared by a committee under the Minister of Justice whose members had visited certain detention centres had revealed no problematic situations at those centres.

31. **Mr. Mohammed** (Iraq), speaking via video link, said that the Government was planning to sign a memorandum of understanding with entities such as UNAMI regarding visits to places of detention. UNAMI had conducted four such visits in 2022, while the International Committee of the Red Cross had carried out six visits in 2019 and two visits in 2020.

32. **Mr. Roudan** (Iraq), speaking via video link, said that, by law, the investigating judge must be provided with all the documents pertaining to an arrest within 24 hours of the arrest and must question arrested persons as soon as they were brought before him or her. Arrested persons were informed of their right to remain silent and their right to be represented by a lawyer of their own choice or a court-appointed lawyer. The Criminal Code stated that the period of pretrial detention should not exceed six months or one quarter of the prison sentence that could be imposed for the offence with which the arrested person had been charged. That period could be extended only by order of a criminal court.

33. All judges were bound by the rule of law and were punished if they were found to have broken the law. There had been several cases in which penalties had been imposed on judges for delays in ordering the release of prisoners and other violations. The principle of the independence of the judiciary was enshrined in several articles of the Constitution. The judiciary operated in accordance with very strict rules and no other authority could interfere with its work. Any reports to the contrary were unfounded.

34. There were no secret prisons in Iraq. Any reliable information about the existence of such prisons would be gratefully received by the Government. Incitement to violence in the context of a tribal dispute was considered a criminal offence. The members of the Federal Court of Cassation and the courts of appeal were appointed by the Supreme Judicial Council. The Council of Representatives simply ratified the appointments.

35. **Mr. Al-Quraishi** (Iraq), speaking via video link, said that there were 28 camps for internally displaced persons, of which 16 were in Dahuk. There were approximately 37,000 families in the camps. The Ministry of Migration and the Ministry of the Interior had been working hard to provide internally displaced persons with identity documents and had set up offices for that purpose in areas with a large number of internally displaced persons. Around 19,000 identity documents had been issued thus far. No cases of secondary displacement had been reported to the Ministry of Migration or recorded by the local authorities. Steps were being taken in cooperation with the Independent High Electoral Commission to ensure that voting documents were issued to internally displaced persons.

36. The Government had drawn up plans to address the various problems faced by internally displaced persons and to enable those persons to return to their original places of residence. Those plans had been approved in 2021 and were currently being implemented. Security and national reconciliation policies were being developed and steps were being taken to support the rehabilitation of returnees. There were no restrictions on the freedom of movement of internally displaced persons, with the exception of those who were being treated in psychosocial rehabilitation centres. Those persons would be returned to their original places of residence in coordination with the local authorities.

37. There were 500 families who had been under the authority of Da'esh. Of those, 380 were in camps for internally displaced persons. Steps were being taken to provide psychosocial support to those families, to issue them with identity documents where necessary and to enable them to return to their original places of residence. The camps for internally displaced persons were managed by the local authorities. There was no record of women residents of the camps having suffered abuse. In the context of the COVID-19 pandemic, special centres had been set up to prevent the spread of the disease in the camps, to provide medical treatment to infected residents and to run vaccination campaigns.

38. **Ms. Mohsin** (Iraq), speaking via video link, said the committee that had been tasked with reviewing the Criminal Code in the light of the State's international obligations had completed its work and had submitted draft amendments to provisions of the Code that were discriminatory against women to the Council of Ministers. A bill that would amend article 409 of the Criminal Code on honour killings had also been drawn up and would be submitted to the Office of the President for endorsement. According to a survey conducted in 2020, 12.1 per cent of women had been subjected to domestic violence in the form of verbal abuse, while 5.7 per cent of women had suffered physical domestic violence.

39. **Mr. Mohammed** (Iraq) said that the National Counter-Terrorism Strategy had been endorsed by the National Security Council and had been passed on to the relevant ministries for implementation.

40. **Mr. Ghanim** (Iraq), speaking via video link, said that the national committee on enforced disappearance had dealt with one third of the cases of enforced disappearance that had been referred to it. The remaining cases were being investigated. Specialized police units visited the families of disappeared persons to take statements from them about the circumstances of individual cases. In the context of the atrocities committed by Da'esh, the number of cases of enforced disappearance had risen, especially among the Yazidis. Iraq was cooperating with the international community in order to track down perpetrators who had fled to neighbouring countries.

41. **Ms. Barakat** (Iraq) said that more than 6,500 persons had been abducted by Da'esh. Of those, around 3,500 had since been freed by the security services. An office had been set up in the Kurdistan Region to assist women and children who had been freed. The Government was also taking steps to exhume the remains of persons who had been buried in mass graves and to return them to their families. Efforts were under way to develop a comprehensive action plan on dealing with cases of abduction and to create a database of names of abducted persons. It was difficult to identify all victims because some had been abducted at such an early age that identifying features such as their name and mother tongue had changed following their abduction. In cases where victims had been taken to neighbouring countries, international cooperation was needed. Women and child survivors of crimes committed by Da'esh were provided with financial support in order to help them to reintegrate into society.

42. **Mr. Hussein** (Iraq), speaking via video link, said that the law on missing persons that had been passed by the parliament of the Kurdistan Region in connection with the genocide of the Feyli Kurds had been amended to cover victims of Da'esh and their families. According to the legislation in force in the Kurdistan Region, persons who were tried and acquitted after a long period of pretrial detention were eligible for compensation. A regulation setting out prisoners' rights had been adopted in the Kurdistan Region in 2008. With regard to prison visits, the Kurdistan Regional Government cooperated with international organizations and the Iraqi High Commission for Human Rights. As of May 2021, UNAMI had carried out more than 25 visits to prisons in the Kurdistan Region.

43. **Mr. Mussa** (Iraq) said that all children with an Iraqi parent, including children born as a result of domestic violence or outside marriage, were granted Iraqi nationality, in accordance with the law. A committee comprising representatives of the Supreme Judicial Council and other bodies had been set up to discuss how to deal with the children of Da'esh fighters. The committee had recommended several courses of action, including performing DNA tests in cases where the father's identity was unknown and ensuring that such children were issued with identity documents.

44. **Mr. Yigezu** said that it would be helpful if the delegation could provide disaggregated data on the application of the death penalty, including the number of persons sentenced to death who had been pardoned or granted commutation of their sentence. He was curious to know whether the construction of additional detention centres had helped to reduce the high rate of prison overcrowding reported by the State party. Lastly, he would like to know whether entities such as the Iraqi High Commission for Human Rights were allowed to conduct unannounced visits to places of detention.

45. **Mr. Bulkan** said that he would like more information about the procedure for the appointment of judges and the safeguards in place to ensure that members of the executive branch were unable to interfere with the appointment or removal of judges.

46. **Mr. Ben Achour** said that he would like clarification as to whether the Federal Supreme Court had handed down a final ruling on the relationship between sharia and the Covenant.

47. **Ms. Sancin** said that she would like to know whether internally displaced persons were able to exercise their right to vote. She would also like to know more about the security clearance procedure for internally displaced persons and the criteria on which it was based.

The meeting rose at 5 p.m.