



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Consideration of reports submitted by States parties
under article 19 of the Convention**

**Replies of Iraq to the list of issues in relation to its
second periodic report***

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* The present document is being issued without formal editing.



Introduction

1. The Republic of Iraq is submitting the present document in reply to the list of issues in relation to its second periodic report, issued by the Committee against Torture (CAT/C/IRQ/Q/2). Iraq undertakes to provide more details during the interactive dialogue to discuss the report.

Reply to paragraph 1

2. With reference to paragraph 12 (a) and the issue of arbitrary detention under Iraqi legislation, it should be noted that no person may be detained or deprived of liberty without an arrest warrant issued by a competent judicial authority. Persons who violate that requirement are subject to the provisions of article 421 of the Criminal Code, which states: “Anyone who arrests, detains or deprives a person of liberty by any means without a warrant from a competent authority and in circumstances other than those explicitly provided for in applicable laws and regulations shall be liable to a term of imprisonment of up to 15 years, in the following circumstances:

- If the action is committed by a person who is wearing, without entitlement, the uniform or distinctive official insignia of a public servant, assumes a false public identity or produces a fake warrant of arrest, detention or imprisonment while claiming that it was issued by a competent authority;
- If the action is accompanied by threat of death or of physical or mental torture.”

3. Cases of torture, extrajudicial executions and enforced disappearance are not a systematic practice on the part of the State but single acts committed by individuals. Any allegations in that regard must be supported by evidence. When accused persons appear before the court they are asked if they have been subjected to torture in order to extract a statement or a confession, and they are sent to a forensic doctor to determine the validity of any allegations they might make. If the allegations are proved to be true, the law punishes the persons responsible for the torture who, irrespective of their rank or position, enjoy no immunity but face full legal proceedings.

4. The Human Rights Directorate in the Ministry of Defence works to monitor and prevent human rights violations in which personnel of the Iraqi Army might be involved. To that end, it has formed fact-finding commissions on torture, enforced disappearance or extrajudicial executions that might occur during military operations. It has dedicated telephone lines for receiving complaints and runs human rights awareness-raising and training programmes for military personnel. In addition, military lawyers have been assigned to monitor violations inside military groups and formations

5. Da’esh has committed many international terrorist offences that constitute genocide, crimes against humanity and war crimes. These include slavery and enslavement, sexual slavery, abduction, rape, murder, torture, forced labour, forced marriage, forced pregnancy, human trafficking especially of women and children and recruitment of child soldiers. All these offences fall under the provisions of the Criminal Code (Act No. 111 of 1969), Anti-Terrorism Act No. 13 of 2005 and the Code of Criminal Procedure (Act No. 23 of 1971) as well as civil laws that govern compensation and redress for victims.

6. The investigation and prosecution of the crimes committed by Da’esh is the prerogative of the Iraqi judiciary and the Office of the Public Prosecution. Such crimes do not require a report to be filed or a complaint to be made in order to initiate an investigation or prosecution, because they constitute offences under ordinary law which the courts and the prosecutors are under an obligation to pursue as soon as, by whatever means, they are informed thereof. As of 1 January 2021, a total of 5,170 Da’esh-related terrorist crimes had been recorded by the investigating authorities in Kurdistan Region.

7. No arrest can be made without a judicial warrant, and all persons accused in terrorist cases are arrested under a warrant issued by an investigating judge. The investigation is conducted in line with applicable criminal laws and, once it is complete, the accused are referred to the competent courts.

8. The Supreme Judicial Council has set up a court of inquiry to look into the crimes committed by Da'esh in Mosul as well as courts of inquiry to examine human rights violations in each area of jurisdiction of the appellate courts and courts of inquiry on anti-terrorism measures. The Government of Iraq has also taken steps, with the Council of Ministers issuing its Decree No. 92 of 2015 in which it declared the crimes committed by Da'esh against certain groups of Iraqi people – Yazidis, Turkmens, Christians, Shabak and others – as acts of genocide.

9. The United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD), which was established pursuant to Security Council resolution 2379 (2017), works to collect, preserve and store evidence and to assist the Iraqi authorities in investigating the crimes, including torture, committed by Da'esh.

10. Iraq has invited special rapporteurs, including the Special Rapporteur on torture, to visit the country and verify the validity of reports of torture.

11. A high-level joint national committee (the monitoring and reporting team) has been formed to examine violations and deprivation of rights suffered by children as a consequence of the armed struggle. Its mandate is to investigate serious violations against children's rights and to meet and address those violations through action plans and accountability mechanisms.

12. According to statistics of the Supreme Judicial Council, a total of 586 cases involving torture and 132 involving enforced disappearance were heard by the courts in 2021. Between 1 August 2019 and 30 April 2020, there were 10 cases involving extrajudicial executions.

13. On the subject of compensation for victims, article 1 of the Code of Criminal Procedure states that any person who is the victim of a criminal act may bring a criminal case against the accused person. Article 10 of the Code envisages a demand for compensation if the victim suffers physical or moral harm as the consequence of a crime. Moreover, article 3 of Act No. 20 of 2009, concerning compensation for persons affected by military operations, military errors and terrorist activities envisages the formation of a central committee under the Office of the Prime Minister to examine requests for compensation – from victims or their relatives – for harm arising from military operations or terrorist actions. For its part, article 4 of the Yazidi Female Survivors Act envisages material and moral compensation for victims who suffered abduction, sexual violence and sexual slavery, who were sold on slave markets or who suffered psychological or physical abuse at the hands of Da'esh. The Act also envisages means for their rehabilitation and reintegration into society. In Kurdistan Region, a total of 2,234 such victims have received psychosocial support.

14. With regard to paragraph 14, apart from the safeguards for accused persons enshrined in the Constitution, further guarantees are envisaged in articles 92, 123–128 and 156 of the Code of Criminal Procedure. Moreover, article 16 of Act No. 58 of 2017 concerning the protection of witnesses, experts, informants and victims states: "The maximum penalty envisaged under the Criminal Code (Act No. 111 of 1969), as amended, is to be applied against an informer who provides false information that leads to the imprisonment of an accused person who is innocent, against a witness who gives false testimony and against an expert who deliberately provides false expertise." Iraqi legislators have adopted a wide-ranging approach to deal with the effects of torture of all kinds, in accordance with Coalition Provisional Authority Memorandum No. 3 of 2003 on criminal procedures, which modified part of article 218 of the Code of Criminal Procedure (Act No. 23 of 1971) and imposed the condition that confessions must not have been extracted by coercion. In no case can members of the executive play a role or express an opinion on the course of investigations; these remain the exclusive prerogative of the judiciary, which is an independent body in which no one may interfere. Moreover, it is forbidden to use any illicit means such as threats or torture to coerce accused persons into making a statement.

15. As concerns arrest and restriction of liberty, reference is made to paragraph 1.

16. Pursuant to Administrative Order No. 57 of 1 December 2014, the Council of Ministers issued the following provisions:

- No person may be arrested or detained except under a warrant issued by a competent judge or a competent court, or in circumstances envisaged by the law, including articles 102 and 103 of the Code of Criminal Procedure;
- The authority that carries out the arrest or detention shall, within 24 hours, record the name of the detainee, the place of detention, the grounds for the detention and the legal provision applicable thereto in the electronic and manual versions of a central register created and administered by the Ministry of Justice;
- The Ministry of Defence, the Ministry of the Interior and the National Security Agency shall establish rules and procedures whereby officials enter information about detainees into the central register;
- No person may be arrested or detained by authorities other than those mentioned above;
- A person's arrest in circumstances other than those provided for in the present Order shall be deemed to constitute criminal abduction and false imprisonment, and perpetrators shall be liable before the law.

17. The Counter-Terrorism Service has a database of accused persons that is updated as the circumstances of those persons change. The Service does not have any secret detention facilities.

18. With reference to paragraph 13, the law provides protection for women during and after conflicts. Relevant legislation includes the Criminal Code (Act No. 111 of 1969) wherein articles 393 and 394 address the crimes of rape and sodomy; article 421 addresses abduction; and articles 405 and 406 address murder. Article 2 of Anti-Terrorism Act No. 13 of 2005 covers acts of terrorism such as violence, threats and abduction, for which punishments such as the death penalty and imprisonment are envisaged. For its part, article 1 (1) of Trafficking in Persons Act No. 28 of 2012 defines such criminous acts as transporting persons, recruiting them as soldiers or harbouring them using threat of force, or abducting persons using fraud, deceit or abuse of authority with a view to selling them, using them in prostitution, abusing them sexually or subjecting them to servitude, beggary or forced labour, or trading in their bodily organs. All these actions attract penalties of imprisonment. Article 4 of Yazidi Female Survivors Act No. 8 of 2021 seeks to address the negative impact of the crimes committed by Da'esh against Yazidis and other groups such as Christians, Turkmens and Shabak, particularly women and children. The purpose of the Act – which covers offences such as sexual violence, abduction, sexual slavery, sale on slave markets, forced marriage, forced pregnancy and abortion, and psychological and physical abuse – is to restore victims' rights and provide compensation, rehabilitation and reintegration into society. As of 2 September 2020, a total of 2,070 women in Kurdistan Region had suffered violations of their rights, and 1,201 had been rescued.

19. A centre has been set up to investigate crimes of genocide, where legal specialists, psychologists and sociologists are on hand to provide services to Yazidi women rescued from the clutches of Da'esh. Assistance has been given to more than 2,000 women, over 1,000 of them above the age of 18, who were taken to hospital where they received treatment and psychological assistance from specialists. A total of 2,036 cases of sexual assault have been recorded in Dahuk against Yazidi women and girls, of whom 1,052 were over the age of 18 and 984 under the age of 18. More than 1,278 people have received psychological, social and legal assistance at the counselling centre in Dahuk from the psychological and social treatment unit, whose staff were trained by the Commission for International Justice and Accountability. They also signed a contract with the Kurdistan Regional Government to assist in the investigation and documentation of crimes and the gathering of evidence. To this end, a Da'esh crime investigation unit has been established and has done a lot of good work, especially in preparing hundreds of legal files for cases related to girls, women and children from the Yazidi, Kurdish and other communities.

20. The Government has launched its second national plan for the implementation of Security Council resolution 1325 (2000) on women, peace and security, as well as its plan for the implementation of the Joint Communiqué of the Republic of Iraq and the United Nations on Prevention and Response to Conflict-Related Sexual Violence. Both plans focus

on protecting women and girls affected by armed conflict and gender-based violence, and aim to ensure that perpetrators do not go unpunished. They have three objectives:

- Protecting women and girls, particularly in camps, displacement sites and areas of return;
- Ensuring accountability and justice and preventing impunity;
- Protecting women and girls affected by armed conflict and gender-based violence, and reintegrating them into society.

21. Some of the more significant protection-related activities envisaged under the plan for the implementation of resolution 1325 are listed below:

- Providing health, legal, psychosocial and other services to meet the needs of women;
- Opening channels for reporting and investigating violence;
- Creating safe spaces for women, which they can administer themselves in their own communities;
- Establishing shelters for victims of violence and their children.

22. The Directorate for Family and Child Protection from Domestic Violence in the Ministry of the Interior runs a number of services, including a hotline to receive complaints from victims of violence. The Directorate makes a record of victims' statements and, if they have physical injuries or have suffered sexual assault, refers them to hospital for treatment. The medical report testifying to the sexual assault is then annexed to the investigation file and can be shown to the investigating judge so that the perpetrator can be arrested.

23. Article 3 (1) of Yazidi Female Survivors Act No. 8 of 2021 includes provision for the creation of a central directorate for the welfare of Yazidi survivors of Da'esh, which is answerable to the Ministry of Labour and Social Affairs. Under article 10 (1) of the Act, a committee was established by the Ministry of Labour and Social Affairs whose job it is to examine applications from Yazidi survivors and from other groups who are eligible for redress and compensation for damages. The committee has members from various stakeholders involved in the compensation process.

24. The Government of Iraq issued an administrative order for the creation of the National Council for Women's Affairs, which provides support to women's departments inside government institutions, drafts policies, discusses women's issues and makes decisions and recommendations in that regard. A committee was formed under Order No. 32 of 2021 to promote the involvement of women in legislative elections and to protect female candidates.

25. The Ministry of Health and the Environment has developed a national strategy for reproductive health for the period 2018–2022, which includes primary health-care services for survivors of gender-based violence. The strategy also envisages that primary health-care centres in the health departments of Baghdad and the governorates should record any cases of violence they encounter. In addition, a protocol of the clinical procedures to adopt when dealing with survivors of sexual assault has been developed, along with a guide to the protocol, in collaboration with the United Nations Population Fund (UNFPA). In coordination with the World Health Organization (WHO), a guide to health care for female victims of domestic or sexual violence has been drawn up and work is underway on a Ministry of Health gender and human rights strategy for 2021–2025.

26. In Kurdistan Region, a centre has been opened to investigate and document the crimes committed by Da'esh, mobile teams have been set up in the camps to report crimes of violence and harassment, a centre has been established to treat and support the rehabilitation of women rescued from the clutches of Da'esh and 50 centres have been created to raise awareness and to provide health and psychological services inside the camps.

27. With reference to paragraph 16 (b), the central prison at Al-Muthanna airport is a publicly known preventive detention facility, the security and protection of which is administered by the Directorate of Military Intelligence while its functioning is overseen by the Supreme Judicial Council. Persons are held there under the custody of the Ministry of Defence and the National Intelligence Service, and the facility is visited and inspected on a

regular basis by national and international bodies. The facility has its own investigative body consisting of an investigating judge, a prosecutor and judicial investigators, which examines and resolves issues involving detainees. As concerns allegations of torture, should any arise, they are isolated instances carried out by individuals and not a systematic practice on the part of the authorities responsible for arrest and detention. Any person accused of ill-treatment or torture is referred to the competent court. The facility is on the list of proposed visits to be made by the Special Rapporteur on torture.

28. Detention centres located in the headquarters of military divisions belonging to the Ministry of Defence are exclusively for military personnel serving disciplinary sentences. No civilian detainees may be admitted to them and anyone breaching that rule is held criminally responsible.

29. There are no secret or undeclared detention facilities, and all prisons and detention centres are open to international organizations, human rights groups and the International Committee of the Red Cross (ICRC). In that connection, and acting on instructions from the Minister of Justice, a prison-visiting team has been formed that is answerable to the Ministry of Defence. It is headed by a judge from the Supreme Judicial Council and has members from the Ministry of Defence and the Ministry of Justice (Human Rights Department). The committee conducted a visit on 13 September 2021 during which it met with the director of the prison, inspected cells and met with inmates who were asked directly about their legal circumstances and humanitarian conditions, if they had been brought before an investigating judge and had been allowed to contact their families and if they had been subjected to torture or ill-treatment. All the inmates made it clear that their files had been presented to an investigating judge and that they were allowed to contact their families twice a week. Their whereabouts were, moreover, known and the prison was regularly visited by a medical team which treated inmates according to their needs and, in critical cases, referred them to hospital, particularly in cases of infection with coronavirus disease (COVID-19). Cells are air-conditioned and ventilated while the prison has health facilities, kitchens and freezers for food storage. The committee's visit happened to coincide with that of a group from the Australian Embassy in Baghdad, which was visiting an Australian inmate and stated its view that the prison deals with its inmates appropriately and that they had no complaints concerning detention procedures or inmates' rights.

Reply to paragraph 2

Articles 1 and 4

30. The anti-torture bill proposed by the Human Rights Committee of the Council of Representatives has undergone its first reading. Since a second bill has been submitted by the Ministry of Justice, the Council of Representatives has postponed the second reading until the bill has been endorsed by the Council of Ministers.

31. By order of the Supreme Judicial Council, a committee of judges was established to revise and amend domestic legislation with a view to bringing it into line with international treaties. The legislation includes the Criminal Code, the Code of Criminal Procedure, the Anti-Terrorism Act and other criminal laws. The committee has completed its scrutiny of the Criminal Code and has referred the text to the Council of Representatives for it to be enacted. The Council of State has issued its comments on the bill to amend the Criminal Code and these are being scrutinized by the Secretariat of the Council of Ministers.

32. In such cases, the Iraqi legal system does not admit a statute of limitations, either for the prosecution or the penalty. Article 12 (f) of Iraqi Supreme Criminal Tribunal Act No. 10 of 2005 lists torture as a crime against humanity, while article 17 (2) states that, in interpreting articles 11, 12, 13 and 14 of the Act in matters relating to the statute of limitations on criminal cases and penalties, the Tribunal and its appeals chamber may refer to decisions of international criminal tribunals. At the time of drafting the present report, a bill to amend the Iraqi Supreme Criminal Tribunal Act has been submitted to the Council of Representatives. It would extend the Tribunal's mandate to cover genocide, crimes against humanity and war crimes committed by Da'esh, in or outside the Republic of Iraq, and is intended to promote the activities of UNITAD, which was established pursuant to Security Council resolution

2379 (2017). Moreover, article 9 of Yazidi Female Survivors Act No. 8 of 2021 states that persons responsible for acts of slavery and abduction against Yazidi women are not to be covered by any general or special amnesty and that there is to be no statute of limitations for perpetrators of genocide or crimes against humanity. A bill on the genocide against the Yazidis, which has undergone its first reading before the Council of Representatives, states in article 1 that the genocide of Yazidis perpetrated by Da'esh is to be addressed by existing criminal laws and that victims are entitled to compensation.

Reply to paragraph 3

Article 2

33. Accused persons can be arrested only under a court order issued by the competent judge. The interrogation is then to be conducted within 24 hours by a team from the Supreme Judicial Council made up of an investigating judge and a group of investigators, and in the presence of prosecutors. The interrogation is conducted as promptly as possible and the accused person enjoys the legal safeguards enshrined in articles 92, 123–128 and 156 of the Code of Criminal Procedure (Act No. 23 of 1971). These include the right to be informed of the charges; the right to appoint a lawyer; the right to a medical examination to determine whether there are visible marks of torture; the right to communicate with relatives and inform them of the accused person's location; the prohibition of torture or coercion in order to extract a confession; and the right to treatment and to food, drink. Moreover, adult detainees are held apart from children in separate detention facilities. Section 4 (c) of Coalition Provisional Authority Memorandum No. 3 of 2003 introduces additional procedures under article 123 of the Code of Criminal Procedure to safeguard the rights of detainees.

34. The right of recourse to law and the right to a defence at every stage of the investigation and the trial are guaranteed and enshrined in the Constitution. According to article 144 of the Code of Criminal Procedure, the court must appoint a lawyer at State expense to defend accused persons who do not have a lawyer of their own. Moreover, article 293 of the Civil Code stipulates that compensation claimants are also entitled to legal assistance if, due to poverty, they are unable to appoint a lawyer or meet legal costs and fees. This is then recovered from the party concerned after a ruling has been handed down. In 2021, the Council of Ministers approved a legal aid bill which, following scrutiny by the Council of State, has been referred to the Council of Representatives.

35. The Counter-Terrorism Service, the Department of Juvenile Corrections and the Iraqi Department of Corrections periodically update records pertaining to juveniles, inmates and detainees in correctional homes and schools and in prisons. The Iraqi Department of Corrections uses a computerized system in which inmate data is updated on a weekly basis and data on inmate numbers on a daily basis. In Kurdistan Region, records are updated periodically.

Reply to paragraph 4

36. The Iraqi High Commission for Human Rights is an independent national institution that was established under article 102 of the Constitution and pursuant to its own law: Act No. 53 of 2008, as amended. Its purpose is to guarantee, protect, promote and ensure respect for human rights, and it enjoys administrative independence in the conduct of its work as well as its own budget, infrastructure and resources. In fact, article 2 (1) of Act No. 53 of 2008 states: "A body is to be formed called the 'High Commission for Human Rights', which is to enjoy legal personality and financial and administrative independence." As for Kurdistan Region, the Independent Human Rights Commission, which was brought into being under Act No. 4 of 2010, is sponsored by the Ministry of Finance and Economy and deals directly with the legislature, the executive and the judiciary as well as with civil society organizations.

37. Article 5 (5) of the High Commission for Human Rights Act stipulates that the High Commission may visit prisons, detention centres and other locations with no requirement to obtain prior authorization. It can meet with convicted persons and detainees, document any human rights violations and inform the competent authorities for appropriate legal action to

be taken. In Kurdistan Region, all correctional centres are under the oversight of the Independent Human Rights Commission.

38. Under article 45 (2) and (4) of Prisoners and Detainees Reform Act No. 14 of 2018, the Iraqi Department of Corrections and the Department of Juvenile Corrections are under an obligation, whenever requested, to facilitate the work of inspectors by allowing them to enter prisons and obtain the information they need, within agreed deadlines. Correctional centres in Kurdistan Region are monitored by parliament, the Office of the Public Prosecution, the Ministry of Labour and Social Affairs and international organizations, in particular ICRC. Article 45 of the Prisoners and Detainees Reform Act lists the bodies competent to conduct inspections at the Iraqi Department of Corrections and the Department of Juvenile Corrections. They are: the Council of Representatives, the Office of the Public Prosecution, the High Commission for Human Rights, the inspector-general of the Ministry of Health, the provincial council for the area in which the prison or facility is located and any other body legally mandated to carry out inspections. Non-governmental organizations (NGOs) that operate in the field of human rights can also visit prisons and detention centres and write reports, if they obtain legal authorization or approval from the competent authorities. One of the most important conditions NGOs have to fulfil is that of being registered with the Department for Non-Governmental Organizations. The Ministry of Justice and other bodies responsible for prison administration cooperate with international organizations, which also make visits of inspection to prisons.

39. Iraq is constantly studying international human rights treaties and seeks to create appropriate legal conditions and to meet legal requirements before acceding, in order to ensure that such accession is effective and productive.

Reply to paragraph 5

40. As concerns legislative measures, reference is made to paragraphs 17, 25 and 30, and attention is drawn to the bill to amend the Criminal Code. In fact, according to article 398 of the Code, if a person accused of rape concludes a valid contract of marriage with the victim, the prosecution, investigation or any other related procedure is dropped or, if a sentence has already been handed down, its enforcement is suspended. Under the proposed amendment, a valid contract of marriage concluded between perpetrator and victim would no longer constitute grounds for suspending the enforcement of sentence or for dropping the investigation or prosecution. This is consistent with human rights principles.

41. The Department for the Empowerment of Women, which is part of the Secretariat of the Council of Ministers, has assembled a database of all the legal provisions that discriminate against women, so that they can be examined and recommendations made for them to be amended or abrogated.

42. Articles 128, 130 and 131 of the Criminal Code under which offenders can claim defence of honour as a mitigating factor are general provisions that come under the heading of “legal pretexts and attenuating grounds”, and they are applicable, not merely to a single offence, but to all offences. Legislators have left it to judges’ discretion to decide to what extent those provisions should be applied depending upon the circumstances of each case. In Kurdistan Region, articles 128, 130 and 131 have been amended and defence of honour is no longer considered grounds to attenuate an offender’s punishment in cases of murder.

43. Honour-related motives are considered a mitigating factor, but the Iraqi judiciary interprets this as including all honour-related motives and not just “purification of dishonour” in which the victims are invariably women. The same applies to article 409 of the Criminal Code. Amendments to the articles in question are currently under consideration.

44. Part of the plan of action of the Department for the Empowerment of Women in the Secretariat of the Council of Ministers is to pursue legislative amendments by cooperating with international organizations to run workshops where discriminatory legal texts can be examined and discussed.

45. On 10 January 2021, the Supreme Judicial Council issued Memorandum No. 9 for the formation of a special domestic-violence court in each area of jurisdiction of the appellate

courts. The Ministry of the Interior, moreover, has created the community police service, which focuses on criminal cases involving problems that arise within the same family, and the Ministry's Directorate for Family and Child Protection from Domestic Violence is opening branch offices in all governorates to receive cases involving domestic violence against women and children. In addition to this, the Human Rights Directorate in the Ministry of the Interior receives complaints of torture against persons in detention and persons not in detention, including women and children.

46. The Directorate for Family and Child Protection from Domestic Violence in the Ministry of the Interior receives complaints from victims of violence, particularly women and children, who are the most vulnerable groups in society. The complaints can be filed at the Directorate's offices in Baghdad and the governorates or via the 139 hotline. Action can then be taken against perpetrators in accordance with the law. If women or children have been subjected to torture or cruel or inhuman treatment, the Directorate takes legal steps by procuring a decree from an investigating judge, and sometimes women and children can be placed in a State-run home for their own protection.

47. In Kurdistan Region, bureaus to investigate domestic violence offences have been set up under Anti-Domestic Violence Act No. 8 of 2011 as part of the anti-domestic violence directorate in the Ministry of the Interior.

48. If there are signs of physical injuries or if a sexual assault has occurred, the Ministry of the Interior refers victims to hospital for treatment. The medical report is then annexed to the investigation file and is shown to the investigating judge so that the perpetrator can be summoned or arrested and to ensure that the offence does not go unpunished.

49. Under its Decree No. 94 of 2020, the Council of Ministers approved an anti-domestic violence bill, which has been referred to the Council of Representatives for enactment.

50. With a view to protecting working women, Iraq is examining the possibility of acceding to the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization (ILO).

51. In 2019, the Supreme Judicial Council issued a decree setting standards wherewith to address cases of sexual harassment in public spaces, government departments and places of work.

52. The Council of Ministers has approved a national strategy to combat violence against women. Its purpose is to promote the rights of Iraqi women of all ages, protect them against negative discrimination and violence and limit the impact of those phenomena. The strategy – which covers four themes: prevention, care, protection and policies and their implementation – draws from sources such as treaties on women's and human rights as well as from the Constitution which contains numerous provisions envisaging equality of gender and equality before the law.

53. The Council of Ministers has approved a national strategy for the advancement of Iraqi women and a high-level standing committee has been formed to promote it. The committee coordinates efforts to achieve the outcomes of this strategy and of the strategy to combat violence against women, particularly vis-à-vis legislation.

54. Administrative Order No. 32 of 2021 envisages the formation of a committee to promote the involvement of women in legislative elections and to protect female candidates.

55. Kurdistan Region has endorsed a national strategy for the development of women with a view to advancing Kurdish society and promoting women in the region on a basis of civil democracy, respect for human rights and public freedoms and renunciation of all forms of discrimination. In addition, a high-level committee has been established to combat violence against women in the region.

56. A shelter (Al-Beit al-Amin) has been set up under the supervision of the Ministry of Labour and Social Affairs. It takes in victims of human trafficking and female victims of honour crimes, who are given assistance and provided with psychological, health-care and social services. They are also offered educational opportunities and vocational training and provided with the support for their rehabilitation and reintegration into society. Social Welfare Act No. 126 of 1980 was amended by Act No. 28 of 2013, which includes a reference

to domestic violence. Article 29 (1) of the Act states: “Care homes are mandated to provide care for children, minors, juveniles and adults who encounter family problems, who have lost one or both parents, or who are victims of domestic violence. The homes offer a healthy environment that aims to compensate for the loss of family care and affection and to overcome any feelings of solitude.” In Kurdistan Region, shelters have been established where female victims of violence can, by order of an investigating judge, receive protection.

57. Female genital mutilation is a phenomenon limited to certain villages in Kurdistan. Article 2 (1) of Kurdistan Region’s Anti-Domestic Violence Act No. 8 of 2011 defines female genital mutilation as an act of domestic violence and envisages aggravated penalties of imprisonment in cases of repeat offences, if the girl involved is a minor or if the act is committed by a doctor, midwife or pharmacist.

58. With support from UNFPA, the Kurdistan Regional Government has launched a plan to alter community behaviours with a view to eradicating this phenomenon, as well as awareness-raising campaigns to draw attention to its dangers.

59. With regard to forced marriage, a contract of marriage is valid only if all the conditions of statutory and sharia law have been fulfilled, which means full mental and legal capacity (i.e., being at least 18 years of age), in accordance with the Iraqi Personal Status Act. The Act makes an exception vis-à-vis the condition of eligibility for persons who have attained the age of 15, but the exception is restricted by a number of additional conditions. These include a judge’s authorization to marry, the necessary physical development and the consent of the person’s legal guardian; i.e., the father, or the mother if the father is absent. If the guardian objects to the marriage, the judge can nonetheless authorize it. Marriageable age in Kurdistan Region has been amended to 16.

60. The issue of early marriage and coerced marriage is addressed in the Personal Status Act, which says that no one has the right to coerce another to marry and envisages imprisonment for anyone who violates the law in that regard. Victims can lodge complaints with the competent authorities. In Kurdistan Region, early marriage is considered to be an offence of domestic violence.

61. The Ministry of the Interior conducts campaigns for girls in schools intended to raise their awareness to the perils of early and forced marriages.

62. Statistics show that the number of complaints received and investigations conducted by the Ministry of the Interior in cases of sexual, physical, verbal, psychological, economic and other forms of violence against women stood at 12,225 in 2019, 12,495 in 2020 and 5,927 in 2021. In Kurdistan Region, there were 28,703 complaints over the years 2019, 2020 and 2021.

63. A total of 595 cases of sexual violence were brought before the courts while 20,213 cases of violence against women were recorded between 1 August 2019 and 31 December 2020 and there were 317 cases of rape in the years 2019 and 2020. In Kurdistan Region, there were 349 cases of violence over the years 2019, 2020 and 2021.

Reply to paragraph 6

64. Annex 1 contains statistics compiled by the Ministry of the Interior regarding the number of complaints and investigations into human trafficking offences for the years 2019 and 2020, as well as statistics compiled by the Supreme Judicial Council. There were a total of 349 cases of human trafficking between 1 August 2019 and 31 December 2020.

65. Trafficking in Persons Act No. 28 of 2012 was based on the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Act is currently being studied with a view to introducing amendments, in particular to establish a fund to assist human trafficking victims. In addition to this, a bill to amend the instructions for the implementation of the Act is currently before the Council of State.

66. Article 11 (5) and (7) of the Act requires the State to provide victims and witnesses with the necessary protection and to provide financial assistance to victims. Moreover, according to article 10 of the Code of Criminal Procedure (Act No. 23 of 1971), when lodging

a criminal complaint victims have the right under civil law to demand compensation for the physical and moral damages they have suffered, and the court is mandated to rule on compensation and redress.

67. Under article 11 (1) and (7) of the Act, the competent institutions of State are required to provide victims with assistance, notably medical assistance in the form of a doctor's examination to determine their state of health. The State must likewise provide victims with lodging that is appropriate for their age and sex. In the light of these requirements, Regulation No. 7 of 2017 regarding care homes for victims of human trafficking was issued pursuant to Council of Ministers' Decree No. 385 of 2017. The Regulation states that a care home for victims of human trafficking is to be opened in Baghdad, linked to the Social Protection Department of the Ministry of Labour and Social Affairs. The Minister of Labour may also establish care homes for human trafficking victims in other governorates. The home is responsible for the welfare of trafficking victims, their social, psychological and physical rehabilitation and their reintegration into society. To that end, it adopts a number of reintegration procedures and provides educational opportunities and vocational training. It also facilitates residency requirements for non-Iraqi victims. The home has a number of different centres: one for children under the age of 12, one each for boys and girls between the ages of 12 and 18 and one each for male and female adults.

68. Article 10 of Trafficking in Persons Act No. 28 of 2012 states: "In no case is account taken of the consent of victims of human trafficking." Thus, if exploitation for the purposes of prostitution, vice or the sex trade has connotations whereby it amounts to an act of human trafficking, victims are treated as victims of human trafficking and, therefore, not prosecuted for associated crimes such as coercion into vice and prostitution.

69. Act No. 11 of 2016, which concerns the transplantation of human organs and prohibits the trade therein, establishes a strict legal regime to regulate organ donation and to prevent organ trading. The Act envisages penalties for the removal of an organ, component or tissue from a living or dead human being and for its transplantation into another body, in a manner contrary to the provisions of the Act. It also penalizes anyone who participates in such activities, acts as an intermediary therein or supports them by means of advertisement, fraud or coercion.

70. The Independent High Commission for Human Rights works to protect, promote and ensure respect for human rights in Iraq by receiving complaints from individuals, groups and civil society organizations about crimes and violations. In that regard, it conducts preliminary inquiries then brings a case and refers the matter to the Office of the Public Prosecution.

71. A central anti-trafficking committee has been set up under the Trafficking in Persons Act, headed by the Ministry of the Interior and with members drawn from competent institutions. The committee's tasks include developing plans and programmes to combat and reduce the phenomenon of human trafficking, making anti-trafficking recommendations, compiling reports on trafficking and proposing measures to assist victims. A national anti-trafficking plan intended to create a society free from human trafficking has been drafted, which focuses on the following themes: prevention, protection and assistance for victims, legal action and regional and international partnership and cooperation. In addition to this, the Directorate for Combating Terrorism and Organized Crime has been set up in the Ministry of the Interior while, in Kurdistan Region, a high-level committee has been established to combat human trafficking, which has branch offices at governorate level. Moreover, an anti-trafficking directorate in the Ministry of the Interior follows up and investigates complaints and refers offenders to the courts.

72. The Ministry of the Interior has set up a telephone and email hotline to receive complaints about such offences.

73. Committees of inquiry have been set up in most governorates to investigate human trafficking offences, in coordination with the security services and the Supreme Judicial Council, while maintaining the confidentiality of information sources and witnesses.

74. A high-level committee has been set up in Kurdistan Region as well as subcommittees at the governorate level within the region. Judicial proceedings have been launched and

offenders have been referred to the courts while anti-trafficking directorates have been brought into being that follow up and investigate complaints.

75. A national standing committee on international humanitarian law has been formed whose job it is to monitor the violations and crimes committed by terrorist groups and to make relevant recommendations to the Office of the Prime Minister.

76. UNITAD, which was established pursuant to Security Council resolution 2379 (2017) works to collect, preserve and store evidence and to assist the Iraqi authorities in investigating the human trafficking crimes committed by Da'esh.

77. Iraq is at pains to cooperate with specialized international organizations in order to build capacity among personnel involved in judicial investigations. To that end, Iraq has signed agreements and memorandums of understanding on judicial cooperation and extradition with a number of countries.

78. A joint programme to train persons involved in anti-trafficking activities has been launched, thanks to cooperation between the Ministry of the Interior and the International Organization for Migration (IOM). In addition, a programme has been developed in cooperation with the European Union to run courses and workshops on international anti-trafficking laws and treaties. The central anti-trafficking committee's national plan for 2019 envisages regional and international partnership and cooperation with international organizations involved in the fight against trafficking, such as the International Criminal Police Organization (INTERPOL), the United Nations Office on Drugs and Crime (UNODC) and ILO.

79. Iraq has signed a number of international and regional treaties aimed at greater cooperation with the international community and the exchange of experience and expertise. The treaties include: the Arab Convention on Combating the Trafficking of Persons, the Arab Convention on Human Organ Transplantation, the Arab Convention to Prevent Human Cloning and the Arab Protocol on Combating the Trafficking of Persons. Moreover, Iraq has acceded to the United Nations Convention against Transnational Organized Crime and to its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

Reply to paragraph 7

Article 3

80. The standing committee for refugee affairs in the Ministry of the Interior does not deport unsuccessful asylum applicants back to their country of origin. If a deportation does take place and the State is concerned that the individual concerned faces a real risk, then that person is deported to a third country. The relevant operational procedures, which are set forth in Refugee Act No. 51 of 1971, aim to serve and protect Syrian, Palestinian, Turkish and other refugees, be they Arab or foreign. Iraqi law makes no distinction between refugees, and all persons whose applications are accepted are granted refugee status. Neither for its part does the Kurdistan Regional Government forcibly return refugees but ensures that all returns take place on a voluntary basis.

81. A memorandum of understanding was signed between the Iraqi Ministry of the Interior and the Office of the United Nations High Commissioner for Refugees (UNHCR). Under article 2 (4) of the memorandum – “Scope of cooperation between the two parties” – the Ministry of the Interior undertakes to refrain from forcibly expelling asylum seekers not recognized by the standing committee for refugee affairs and other refugees given expulsion orders by the Iraqi courts. The undertaking is based on the understanding that UNHCR will consider the applications submitted by such individuals for third-country resettlement, in accordance with the relevant laws and conventions, and inform the Ministry of the Interior, through the standing committee, of the outcome within a period of one year, which may be extended for a similar period where there are bona fide reasons for so doing.

82. Iraq and the European Union signed a partnership and cooperation agreement concerning migration and asylum, which addressed the issues of voluntary return, readmission, reintegration, technical cooperation and border management.

83. Acting under the 1951 Convention relating to the Status of Refugees and in accordance with the principle of non-refoulement enshrined in international treaties and instruments, Iraq has abrogated several memorandums of understanding under which Iraqis living in Sweden, Denmark or Norway were compelled to return.

84. A technical working group on migration is working with IOM on the return, readmission and reintegration of migrants, and on the launch of a national migration strategy.

85. The Council of Ministers has approved a bill concerning refugees and referred it to the Council of Representatives, where its awaiting enactment. The bill itself was drafted with the support and under the supervision of UNHCR and is consistent with the 1951 Convention relating to the Status of Refugees. Article 5 (6) of the bill reads: "Persons whose asylum applications have been rejected have the right to appeal to the administrative courts, in accordance with the law."

Reply to paragraphs 8 and 9

86. Iraq hosts refugees who hold a number of foreign nationalities, including 8,000 Palestinians, around 250,000 Syrians, around 12,300 Turks and 10,535 Iranians, in addition to persons of other nationalities who also hold refugee status. The standing committee for refugee affairs in the Ministry of the Interior does not deport unsuccessful asylum applicants back to their country of origin and, if a deportation does take place, it is to a third country.

Reply to paragraph 10

Articles 5 to 9

87. In articles 6, 7, 8, 10, 11, 12, 13 and 14 of its Criminal Code (Act No. 111 of 1969), Iraq adopts the principles of territorial, personal and universal jurisdiction. These principals have a general application to all offences envisaged under the Code, including that of torture, irrespective of whether the perpetrator is Iraqi or foreign.

88. The judicial system is independent and impartial, and Iraqi laws guarantee the access of all persons to justice. The judiciary acts to address issues of impunity and reparations for victims and takes steps to conduct confidential and comprehensive investigations into human rights violations, in line with the Criminal Code, the Anti-Terrorism Act, the Code of Criminal Procedure and the laws governing compensation.

89. As concerns extradition and mutual legal and judicial assistance, Iraq has concluded a number of extradition treaties and agreements with other countries, which are applicable to all crimes save political or military offences or offences that affect national security or sovereignty or the Constitution. These instruments are as follows: The Treaty of Judicial Cooperation between the Republic of Iraq and the (former) German Democratic Republic; the Treaty on Judicial and Legal Cooperation between the Republic of Iraq and the Union of Soviet Socialist Republics; the Agreement on Legal and Judicial Cooperation between the Republic of Iraq and the Polish People's Republic; the Treaty on Judicial and Legal Cooperation between the Republic of Iraq and the Hungarian People's Republic; the Agreement on Legal and Judicial Cooperation between the States of the Arab Cooperation Council; the Agreement on Legal and Judicial Cooperation between the Republic of Iraq and the Republic of Turkey; the Agreement on the Transfer of Sentenced Persons between the Government of the Republic of Iraq and the Islamic Republic of Iran; and the Agreement on the Transfer of Sentenced Persons between the Republic of Iraq and the Government of the United Kingdom of Great Britain and Northern Ireland.

Reply to paragraph 11

Article 10

90. The Iraqi High Commission for Human Rights is running specialized training programmes for officers and enlisted men of the security agencies of the Ministry of the Interior. The programmes focus on police work according to human rights principles and on the humanitarian practices that need to be followed while during security operations. Training courses and workshops on human rights and interaction with civilians during periods of armed conflict are also being run for members of the armed forces, intelligence agencies and the National Intelligence Service.

91. Human rights has been integrated into the training curriculum followed in military and police colleges. The human rights module is a basic course to which several hours of training are dedicated each week.

92. The Counter-Terrorism Service runs specialized training courses on how to administer prisons and detention centres in a manner consistent with human rights principles, the protection of detainees and the prevention of torture.

93. The Ministry of Defence runs training programmes on human rights and international humanitarian law using its Manual No. 262 entitled "Human Rights in the Iraqi Army". Officers, non-commissioned officers and functionaries follow four training courses per year, while non-commissioned officers also undergo weekly training. Moreover, inspection teams and committees from the Human Rights Directorate hold lectures for Iraqi Army soldiers in the field on preventing human rights abuses during military operations, and they organize training activities in coordination with national and international humanitarian organizations.

94. The Human Rights Directorate in the Ministry of the Interior runs an educational and awareness-raising programme intended to disseminate a culture of human rights and international humanitarian law among officers, non-commissioned officers and enlisted men. It is also coordinating with international and governmental organizations and with the United Nations Assistance Mission for Iraq (UNAMI) with a view to opening channels via which to launch a training mechanism consisting in workshops, courses, conferences and seminars for different target groups.

95. Annex 2 includes a table showing the programmes being run for staff of the Ministry of the Interior.

96. Personnel working in prisons and juvenile correction centres have been enrolled in a number of basic training courses and workshops on how to deal with inmates, convicted persons, detainees and incarcerated juveniles. The training also covers the laws that regulate detention as well as programmes to promote and protect human rights and to guard against abuse and torture.

97. As for giving effect to the provisions of article 10 (2) of the Convention, the Constitution and domestic criminal laws of Iraq and its regulations regarding professional conduct all prohibit torture in all its forms and envisage penalties for any violations.

Reply to paragraph 12

98. The Supreme Judicial Council runs training and development programmes on international laws and treaties for judges, prosecutors and functionaries. Many judges have also received specialized training in other areas, such as how to address human rights violations that constitute crimes, including the offence of torture during investigation or trial, and how to deal with victims in accordance with the latest international standards.

Reply to paragraph 13

Article 11

99. Reference is made to paragraphs 15, 32 and 33 while attention is also drawn to the fact that, under article 3 (2) (a) (c) and (d) of Act No. 31 of 2016, wherewith the Counter-Terrorism Service was created, the Service can arrest and detain terrorist suspects only pending investigation and under a court order. If it then emerges that an offence has been committed, the accused person is referred to the competent court.

100. Under article 1 (1) of Prisoners and Detainees Reform Act No. 14 of 2018, the Ministry of Justice and the Ministry of the Interior also have the power to detain persons; however, the Ministry of Justice does not have the authority to question or interrogate inmates or detainees as it is responsible only for detaining them, under a court order. If an inmate commits an infraction, an administrative investigation committee is formed and, if that committee – without using pressure or torture – finds against the inmate, it recommends that an approach be made to the competent authorities so that the inmate can be referred to the courts.

101. The Ministry of Defence and the Popular Mobilization Forces have the power to detain persons pending investigation, both of them being military institutions that are subject to military laws.

102. It is forbidden to establish any prison or detention centre except according to law, and no secret prisons or detention centres exist in the country. The Department of Juvenile Corrections and the Iraqi Department of Corrections are both part of the organizational structure of the Ministry of Justice. Should any secret prisons be found to exist, the persons responsible for running them would be referred to the competent courts.

Reply to paragraph 14

103. Health care and medical tests in prisons and detention centres are carried out at clinics located inside the prisons and centres themselves, with the Ministry of Health supplying medical staff, drugs and medical equipment, particularly – in the light of the COVID-19 pandemic – masks and gloves. Healthy food, bedding and clothing are also provided, and prisoners are given at least one hour a day in the sun and open air. Health care is also made available to female detainees who are pregnant and to their children, and they are able to give birth in hospital.

104. The Ministry of Justice cooperates with the national anti-tuberculosis programme with a view to controlling and eliminating that disease in places of detention. It provides diagnostic and therapeutic services to tubercular patients and it has administered 1,474 doses of influenza vaccine.

105. A ministerial committee, including representatives from the Department of Public Health, the Ministry of Justice and the Ministry of the Interior, has been set up to oversee the preventive measures put in place to curb the diffusion of COVID-19 in places of detention. Moreover, all the preventive and treatment measures decided by the Department of Public Health have been duly applied in places of deprivation of liberty and are applied in all cases of infection among inmates or staff.

106. Medical teams have been formed to oversee preventive measures in places of detention in Baghdad and the governorates.

107. The Ministry of Justice and the Ministry of the Interior have provided educational materials, and drafted COVID-19 guides for circulation in places of detention.

108. A weekly report on COVID-19 infections and deaths in places of detention is being drafted, in coordination with health departments in Baghdad and the governorates.

109. There is direct coordination with relevant officials in the Ministry of Justice and the Ministry of the Interior regarding testing and contact tracing for persons suspected to be

infected with the virus. These activities are conducted by medical and laboratory teams in the primary health-care sector, who provide health-care services in places of detention.

110. Wards in hospitals run by departments of health in Baghdad and the governorates have been set aside for prison use, where cases of serious infection can receive the treatment they require. In addition, isolation cells for infected persons have been opened in correctional schools.

111. Prisons and correctional centres coordinate with the Directorate of Civil Defence to ensure that their facilities are periodically cleaned and sterilized.

112. The authorities coordinate directly with ICRC to obtain technical and logistical support for primary health care centres in detention facilities.

113. In order to address the issue of overcrowding, new prisons have been opened, including Babil central prison, Baladiyat prison and Baghdad central prison. There are also plans to open new prison facilities in the southern governorates of Najaf and Wasit and to expand existing prisons. As concerns correctional facilities for juveniles, the infrastructure of an observation home for young persons in Nineveh has been refurbished after having been damaged by the Da'esh terrorist group. Four new shelters have been built and work is ongoing to construct correctional facilities in the governorates of Basra and Qadisiyah.

114. The following statistics may be given: In 2021, the Counter-Terrorism Service held 82 adult male detainees from Arab States while, between 1 June 2019 and 30 August 2021, the Ministry of the Interior held 2,509 detainees under article 4 (1) of the Anti-Terrorism Act. As concerns other offences, the number of pretrial detainees compared with the number of convicted prisoners is not fixed but changes in line with different procedures and circumstances (amnesty, release, end of sentence, decease, etc.). Table 3 includes statistics on the number of inmates and detainees being held by the Iraqi Department of Corrections and the Department of Juvenile Corrections.

Reply to paragraph 15

115. Under article 11 (1) of Prisoners and Detainees Reform Act No. 14 of 2018, the Ministry of Health is required to cooperate with prisons and detention centres for the provision of health and psychological care to inmates. The Ministry is also to set up hospitals or health units inside prisons, to enlist medical staff in numbers commensurate with the number of inmates and to provide medicines and medical supplies, particularly following the COVID-19 pandemic. In addition, the Ministry is to supply healthy food and clothing, as well as prenatal and postnatal medical services for female inmates. All services are to be made available to inmates without discrimination.

116. Article 8 (2) of the Act states that no inmate or detainee is to be admitted save under a court order or an arrest warrant, in accordance with the law. A medical committee is to issue a report testifying to the state of physical and mental health of the person concerned.

117. Article 1 (9) regulates the classification of inmates, in a single prison or in different prisons, on the basis of sex, age, penalty and type of offence.

118. Article 9 (1) and (4) states that males are to be held in prisons or detention facilities separate from females. The latter are to be under the responsibility of female officials and no male is to be allowed to work in a female prison. Inmates who have reached the age of 18 are to be held separately from inmates who are 22 and older.

119. The most significant steps taken by the Department of Juvenile Corrections to meet the needs of persons with disabilities are as follows:

- Special passageways have been created in correctional facilities to facilitate the transit of persons with disabilities;
- Support, medical equipment and assistance are made available to help persons with disabilities live normal lives;

- Periodic examinations are undertaken by medical staff, and medicines and medical supplies are supplied.

120. As concerns the use of alternative measures to conviction and imprisonment for juveniles, article 2 (2) of the aforementioned Act states that juveniles are to be held in the Department of Juvenile Corrections at the Ministry of Justice, while homeless juveniles are held in the Department for the Care of Persons with Special Needs at the Ministry of Labour and Social Affairs. In the case of males, they remain there until they attain their majority and complete their university education while, in the case of females, until they find an abode or a job or get married. The nature of the institution in which they are held is correctional and not punitive and its purpose is to integrate the young people into society and to correct their behaviour. A juvenile who has suffered torture has the right to file a complaint before the courts. Such institutions are monitored and visited by the Commission for the Care of Persons with Disabilities and Special Needs.

121. Article 9 of Juvenile Welfare Act No. 76 of 1983 states that juveniles are to be divided according to age group, as follows:

- Observation home, which is designed to hold young persons between the ages of 9 and 18;
- Correctional school for the rehabilitation of boys between the ages of 9 and 15;
- Correctional school for the rehabilitation of boys between the ages of 15 and 18;
- Correctional school for the rehabilitation of girls.

Reply to paragraph 16

122. With regard to the harmonization of legislation, reference is made to paragraphs 29 and 30. It should also be noted that solitary confinement is imposed as a disciplinary punishment against inmates or detainees who violate prison regulations, and its purpose is to maintain order and discipline. Solitary confinement – which is not to exceed 30 days for convicted prisoners or 15 days for detained persons – may be reduced or revoked by the director of the Iraqi Department of Corrections or the director the Department of Juvenile Corrections, under articles 38 and 43 (1) of the Prisoners and Detainees Reform Act, which are consistent with international standards. In Kurdistan Region, inmates can be placed in solitary confinement only in rare circumstances and in very serious cases, and for a period not longer than 7 days.

123. Article 44 (4) of the aforementioned Act prohibits the use of any of the following as a disciplinary penalty: corporal punishment, confinement in a dark or cramped cell, reduced meals or any other punishment that is harmful to prisoners' or detainees' physical and mental health.

124. Prisons and detention centres may be inspected by any of the following bodies: the Council of Representatives, the Office of the Public Prosecution, the High Commission for Human Rights, the inspector-general of the Ministry of Health, the provincial council for the area in which the prison or facility is located and any other body legally mandated to carry out inspections. These entities are entitled to enter prisons or detention centres at agreed times, to examine the condition of prisoners and detainees and to record any rights violations they might encounter. Under article 45 of the same Act, the prisoners and detainees may submit complaints to these bodies if they have been subjected to physical or mental torture.

125. Committees that are part of the Human Rights Directorate in the Ministry of Defence conduct regular visits of inspection to preventive detention facilities run by the military. They inspect the condition of military personnel who are being held in detention for disciplinary reasons, verify their state of health and their legal position then make appropriate recommendations to the Minister of Defence.

Reply to paragraph 17

126. If any inmate or juvenile detainee has suffered violence, they may lodge a complaint with one of the regulatory or inspection bodies, or place it in the complaints box. The inspection and complaints division then considers the complaint and, if it is found to be well grounded, refers it to the courts.

127. Any inmate or detainee who breaches rules and regulations faces a disciplinary punishment imposed by the administration of the prison or the detention facility. If the matter amounts to an offence against another prisoner, it is referred to the competent court.

128. As concerns preventive measures, unannounced inspections are conducted to ensure that prisons are free of prohibited items and materials, and facilities are constantly monitored with surveillance cameras. Prisons are staffed with appropriate numbers of guards and overseers are on hand to monitor communal areas and observe any cases of inter-prisoner violence. Under article 9 of Juvenile Welfare Act No. 76 of 1983, young offenders are divided on the basis of age group and kind of crime committed.

Reply to paragraph 18

129. Annex 4 includes statistics from the Ministry of Health regarding the number of deaths in detention centres and prisons.

130. At the time of writing the present report, there has been one death in juvenile correctional facility, of a young person affected with pulmonary tuberculosis. There have been no deaths in facilities run by the Ministry of Defence, the Ministry of the Interior, the Popular Mobilization Forces or the Counter-Terrorism Service.

131. As concerns investigations into the causes of death of an inmate or detainee, article 11 (1) (b) and article 16 (6) and (8) of the Prisoners and Detainees Reform Act state that the health of inmates and detainees is to be monitored by a hospital, health centre or clinic. If a death occurs, the competent doctor drafts a report as to the cause of death then submits it to the Minister for the necessary steps to be taken and the matter to be referred to the courts, the Office of the Public Prosecution, the Independent High Commission for Human Rights and the Ministry of the Interior (Directorate of Criminal Records). The cause of death is investigated and, if it turns out to have been caused by torture, those responsible are referred to the competent court.

132. Article 5 of the Forensic Medicine Act indicates that one of the tasks of the Department of Forensic Medicine is to provide scientific and technical expertise in cases that come before the judicial or investigative authorities. This includes determining the cause of death of inmates or detainees. If the cause is found to be torture, those responsible are referred to the competent court.

133. As concerns compensation for relatives of the deceased, reference is made to paragraph 12.

Reply to paragraph 19

134. Domestic health legislation has a clear focus on habilitation and rehabilitation for persons with disabilities. Article 32 of the Constitution stipulates: “The State is to care for persons with disabilities and with special needs, and is to work to ensure their habilitation and integration into society, in accordance with the law.” In all, there are 186 detainees and convicted prisoners with disabilities or special needs, who are being held in a correctional facility run by the Ministry of Justice inside the Ministry of Health’s Al-Rashad Psychiatric Hospital. Cases in the facility are handled in coordination between the two ministries.

135. The Ministry of Health operates in line with a community-based habilitation strategy and the community-based rehabilitation matrix developed by WHO, which consists of five key components: health, education, livelihood, the social component and empowerment.

136. The Disabilities and Special Needs Act sets forth the relevant functions of the Ministry of Health, which include providing medical and psychological habilitation services and treatment at various levels.

137. In consistency with the aims of community-based habilitation, article 7 of Social Welfare Act No. 126 of 1980 reads: “The State is to strive to reduce the prevalence of disability in the community, and is to care for persons with physical and mental disabilities through assessment, habilitation and mobilization for work in accordance with their capacities and in preparation for their integration into society. Furthermore, the State is to meet the material, health, social and psychological needs of persons unable to perform any work.”

138. The mental health strategy emphasizes the importance of effective integration of mental health services and psychosocial support into primary health care and staff training at all major health centres, in line with global standards, in order to diagnose and manage common mental disorders.

139. Working with other stakeholders, efforts are made to ensure that citizens remain in good physical, mental and social health and free of disease and disability, with a focus on care and prevention as the basis for maintaining health. This is done through:

- Setting up, managing and developing health institutions and centres with a view to improving health outcomes;
- Combating and controlling communicable diseases;
- Promoting family health and providing care for mothers, children and older persons;
- Educating the public on health and raising health and environmental awareness, using all means;
- Promoting mental health by providing a suitable environment and services to that end;
- Providing medicines, serums, vaccines and other essential medical supplies as well as glaucoma screening;
- Ensuring country-wide availability of medical habilitation services, physiotherapy and prostheses.

140. In Kurdistan Region, the rights of detainees and inmates with disabilities or special needs are guaranteed under Act No. 22 of 2011. These rights include the provision of food and clothing, medical tests, health facilities appropriate to their condition and contact with relatives.

Reply to paragraph 20

Articles 12 and 13

141. As concerns investigations, reference is made to paragraphs 15, 32 and 33. The most significant steps taken by the Government of Iraq are as follows:

- A command centre for law enforcement agencies has been established which has the task of protecting demonstrators, ensuring they are not deprived of their freedom and enabling them to express their opinions peacefully;
- Commissions of inquiry have been set up under the supervision of the Prime Minister to look into instances of violence and destruction during demonstrations, and to discover why so many demonstrators and security personnel came to be killed and injured;
- Victims of the demonstrations – both demonstrators and security personnel – are treated as martyrs and granted the relevant rights, and they receive surgical treatment at State expense, both in Iraq and abroad;

- Persons killed and injured during the demonstrations of October 2019, and in subsequent demonstrations, are covered by the bill to amend Martyrs' Foundation Act No. 2 of 2016, which has been referred to the Council of Representatives for approval;
- Due process and fair trial guarantees, in line with the Criminal Code, are provided to demonstrators and members of the security forces who are in detention for having committed offences;
- Security agencies are under an obligation to abide by relevant domestic legislation, laws and human rights standards;
- Thanks to coordination between the competent authorities, health-care services and other requirements for the protection of demonstrators are made available at demonstration sites;
- Injured demonstrators are entitled to a compensation pay-out of 2,500,000 Iraqi dinars (ID) while persons who have suffered an incapacity as a result of their injuries are entitled to compensation of ID 5,000,000. The relatives of demonstrators killed are likewise entitled to compensation of ID 5,000,000, in line with article 9 of Act No. 20 of 2009, concerning compensation for persons affected by military operations, military errors and terrorist activities;
- Victims of the demonstrations who suffered a physical incapacity occasioned by the events in question are covered under Care of Persons with Disabilities and Special Needs Act No. 38 of 2013.

142. The latest statistics from the courts of appeal of the Supreme Judicial Council relating to the number of complaints involving demonstrators between 1 October 2019 and 2 January 2020 are as follows: 111 persons in detention, 748 persons released, 1,989 persons released on bail and 284 arrest warrants issued against persons for overstepping the limits of peaceful demonstration.

143. Statistics from the Ministry of Health relating to the number of dead and injured among civilians and the military between 1 October 2019 and 8 January 2020 are as follows: 24,414 civilians and 2,685 military personnel injured, and 421 civilians and 14 military personnel killed.

144. On 19 January 2020, 13 demonstrators were placed in detention by the investigating judge of the central court of inquiry. They received a visit from ICRC, in the company of a coordinator from the Ministry of Defence, and no negative aspects of their detention conditions was raised at that time. For its part, the Federal Court of Cassation has handed down penalties under the Criminal Code against security personnel who used violence against demonstrators.

145. Annex 5 contains one of the rulings handed down by the competent courts as an example of the statistical data contained in paragraph 141.

146. Regarding allegations of enforced disappearances of demonstrators made by the Committee on Enforced Disappearances and UNAMI, the Ministry of Justice (Human Rights Department) established a committee that has cooperated effectively with security and judicial institutions to determine the fate of those individuals. It has held many joint meetings, including one attended by an official from the UNAMI Human Rights Office, Ms. Danielle Bell. The committee has succeeded in discovering the fate of many cases and has sent information to the relevant United Nations committee on 21 cases, 6 of which were closed and the remainder of which are being followed up with the judiciary and the security services at the time of writing the present report.

Reply to paragraph 21

147. Reference is made to paragraphs 1, 15, 32 and 33 and attention is also drawn to the fact that the courts are independent and impartial, and Iraqi laws guarantee the access of all persons to justice. The judiciary acts to address issues of impunity and reparations for victims,

including the sections of the population most in need of care. It also takes the necessary steps to conduct confidential and comprehensive investigations into human rights violations.

148. The Independent High Commission for Human Rights works to protect, promote and ensure respect for human rights in Iraq by receiving complaints from individuals, groups and civil society organizations about crimes and violations. In that regard, it conducts preliminary inquiries then brings a case and refers the matter to the Office of the Public Prosecution.

149. The military provides the Department for the Empowerment of Women in the Ministry of Defence with monthly appraisals on the crimes of sexual and gender-based violence that fall within the Department's purview. All violations are documented in the relevant database.

150. The rules for information exchange and referral between security agencies and the courts are governed by the Code of Criminal Procedure (Act No. 23 of 1971). Articles 6 to 8 of the Military Code of Criminal Procedure (Act No. 22 of 2016) focus on the reporting and referral to military courts of offences that occur during the course of military operations.

151. Act No. 58 of 2017 concerning the protection of witnesses, experts, informants and victims was promulgated to afford special protection to witnesses, informants, victims and experts in criminal and terrorism-related proceedings, as well as to their relatives up to the second degree. Criminal and terrorism-related proceedings are defined under Regulation No. 9 of 2018 issued pursuant to Council of Ministers' Decree No. 31 of 2018. According to Supreme Judicial Council Directive No. 1 of 2019, which is intended to facilitate the enforcement of the Act, persons covered by the Act may apply to the investigating judge to be placed under the protection envisaged therein if their lives, physical integrity or fundamental interests, or those of their family members or relatives, would be at risk as a result of them testifying, giving an expert opinion or making statements in criminal proceedings or terrorism-related proceedings affecting State security and the lives of citizens. The Act provides for the establishment of a section within the Ministry of the Interior for the protection of witnesses, experts, informants and victims, which reports to the directorate for protecting facilities and public figures. In sum, the Act ensures that the relevant groups (and their personal data) receive the necessary protection, and it envisages penalties for a large number of criminal offences.

Reply to paragraph 22

Article 14

152. As concerns reparation and compensation, reference is made to paragraph 12. At the time of drafting the present report, a total of 120,929 families who had returned after being displaced by the activities of Da'esh had received financial grants; 686,942 families had received a grant of ID 1 million, a further 685,044 families had received a first payment of ID 250,000 while 631,241 families had received a second payment of ID 250,000. A total of 120,929 families have benefited from relief assistance provided by the Ministry of Migration and Displaced Persons. As of 15 March 2021, 417,313 displaced families had returned and 51,660 families were benefiting from financial grants.

153. Some 1,529 Yazidi women who were subjected to violence by Da'esh terror groups have been provided with social assistance without having to fulfil the normal prerequisites. The same applies to 88 Shabak women who were also rescued from the hands of Da'esh.

154. The Ministry of Migration and Displaced Persons provides relief services and shelter to all displaced persons and, working with the relevant stakeholders, seeks to resolve their security- and health-related problems. It also works to provide education and to meet the necessities of their daily lives. Operating alongside international partners, it strives to provide beneficiaries with the best possible services, in line with government budgets and the level of international support.

155. As concerns rehabilitation, shelters for the care of victims, in addition to giving assistance and meeting basic requirements, provide psychological, health, medical and social services,. They also run cultural and social programmes with the intention of promoting a

culture of community integration and fostering civil peace. Moreover, psychological awareness-raising programmes – with workshops and research and study initiatives – are run for community groups in areas that have been liberated from Da’esh.

Reply to paragraph 23

Article 15

156. The investigating judge questions the accused person himself and records any statement made or any confession to having committed the offence in question. The questioning takes place in the presence of a defence lawyer and a prosecutor, in accordance with articles 123–128 and 218 of the Code of Criminal Procedure. According to those provisions, no confession may be extracted under duress and no illicit means may be used to influence accused persons. Moreover, the decisions of an investigating judge are liable to appeal by the parties to the case and the prosecutor if the requests of the accused person or defence lawyer are not met. The court must take no account of a confession if the accused person suffered torture.

157. Article 16 of Act No. 58 of 2017 concerning the protection of witnesses, experts, informants and victims states: “The maximum penalty envisaged under the Criminal Code (Act No. 111 of 1969), as amended, is to be applied against an informer who provides false information that leads to the imprisonment of an accused person who is innocent, against a witness who gives false testimony and against an expert who deliberately provides false expertise.”

Reply to paragraph 24

Article 16

158. The State has decreed that individuals and private and professional entities are to enjoy freedom of thought as well as press and media freedom, under the law and in accordance with the Constitution. Such freedom must not violate public order and morals, harm the internal or external security of the State or promote sectarianism and terrorism.

159. Article 3 of Non-Governmental Organizations Act No. 12 of 2010 stipulates that such organizations are to pursue their ends using peaceful and democratic means. The Act also serves to protect human rights activists and to enable them to do their work without restrictions.

160. The Supreme Judicial Council has appointed investigating judges and trial judges who specialize in hearing cases involving journalists.

161. Media workers and journalists have the legal right to pursue their media-related activities freely, in line with democratic principles and with no restrictions other than those imposed by law. Act No. 21 of 2011 serves to protect journalists and media workers and to promote their rights. Article 5 of the Act states: “(1) Journalists have the right to abstain from writing or drafting newspaper articles that are inconsistent with their own beliefs and opinions or that do not satisfy their journalistic conscience; (2) Journalists can make such criticisms as they deem appropriate in order to clarify their views, irrespective of differences of opinion and intellectual judgements, within the limits of respect for the law.” Under article 8 of the Act: “Journalists may not be held liable for the views they express or for publishing information. This may not be used as grounds to act against them unless such action is at variance with the law.” In Kurdistan Region, Press Act No. 35 of 2007 states that journalists may not be arrested, nor may media organizations be penalized, without informing the Journalists’ Syndicate. The courts are to investigate any violations committed against journalists.

162. The Criminal Code, the Anti-Terrorism Act and the Code of Criminal Procedure are applicable against anyone who assaults, threatens, tortures or kills an activist, journalist or media worker. Special committees have been set up to investigate attacks against activists and civil society organizations during the October 2019 demonstrations.

163. A national committee has been set up for the protection of journalists and the prevention of impunity. Headed by the Ministry of Justice and with members drawn from other competent bodies, the committee is responsible for monitoring judicial proceedings in cases where journalists have been killed and for ensuring that offenders do not go unpunished. The committee drafts an annual report on its activities, which is submitted to the United Nations Educational, Scientific and Cultural Organization (UNESCO).

164. A bill on freedom of expression and of assembly is currently awaiting endorsement before the Council of Representatives.

Reply to paragraph 25

165. As concerns investigations, reference is made to paragraphs 32 and 33. With regard to sexual orientation, the Constitution and statutory laws of Iraq clearly and explicitly provide for individual freedom when it comes to sexual orientation. There are no provisions that penalize sexual orientation per se, unless it includes an infringement of public freedoms and social and religious norms, or it constitutes a crime of sodomy or a violation of the rights of the child, or harassment, or one of the offences covered by the Anti-Prostitution Act. Since public morals and sharia law form the basis for societal behaviour, any violations which people suffer by reason of their sexual orientation are prompted by personal, tribal or family motives and are based on the prevailing culture of Iraqi society, which rejects such phenomena. However, there are no legal grounds for such discrimination. There is no legal recognition of the independent rights of this group, but nor are there any provisions against them. Acts of violence and murder against such persons constitute a crime and perpetrators are held accountable before the law.

Reply to paragraph 26

166. Iraq has a clear position on the death penalty the use of which – under the Criminal Code, the Anti-Terrorism Act and other laws – is restricted to the most serious offences; those that affect the right to life or the peace and security of society. As concerns the possibility of abolishing it, faced with the serious crimes threatening the peace of society committed by terrorist bands, amounting even to crimes against humanity and genocide, such a penalty is considered to constitute a deterrent. For that reason, Iraq has reinstated the death penalty as a way of preserving community peace; however, its use has been reduced to a limited number of offences defined by law and sentences of death can be appealed in cassation. Moreover, the death penalty is not carried out until a presidential decree has been issued, in accordance with the procedures set forth in the Criminal Code (Act No. 111 of 1969), as amended. In Kurdistan Region, the death penalty is, in some cases, commuted to life imprisonment.

167. The death penalty is a legally prescribed punishment that is part of the penal policies that Iraq pursues, while also upholding its international obligations. All procedural and judicial safeguards are duly respected during investigation, trial and enforcement of sentence.

168. Iraqi legislation, in particular the Code of Criminal Procedure, is currently being reviewed with a view to making amendments in line with human rights standards.

Reply to paragraph 27

Other issues

169. Reference is made to paragraph 1 and attention is also drawn to the fact that the response to the threat of terrorism is based on intelligence gathered as to the whereabouts and plans of terrorist organizations. Once this has been done, a court of inquiry issues warrants and suspects are arrested for questioning by the competent judicial authorities, in accordance with the relevant laws and international treaties. Since all measures taken are consistent with relevant laws and international treaties, they do not affect the constitutional and legal guarantees that accused persons enjoy.

170. The National Security Advisory has adopted a national counter-terrorism strategy 2021–2025 and a national community rehabilitation policy for cities liberated from Da'esh terrorist gangs.

171. Seminars have been held with security agencies under the title: “Paths of return for Da'esh terrorist groups in the light of regional challenges”. In addition, a paper has been drafted entitled: “The exploitation of the COVID-19 pandemic by Da'esh terrorist groups” and a booklet published under the title: “Recruitment of women to extremist groups”.

172. As concerns training, reference is made to paragraphs 89–97.

Reply to paragraph 28

173. The Government of Iraq introduced a state of “public health emergency” that allows it to issue decrees and apply exceptional and strict measures to reduce the spread of novel coronavirus. These steps were considered necessary to protect human rights, including the right to life and the right to health.

174. A high-level committee for national health and safety, headed by the Prime Minister, was established under Administrative Order No. 55 of 2020. Its purpose is to promote the preventive measures being put in place by the Government, control public health and raise awareness about COVID-19. The committee has issued a number of decrees intended to prevent the spread of the virus.

175. As concerns hospitals, the Ministry of Health and the Environment has identified additional quarantine locations, alongside existing hospitals. It has also established a field hospital – the Salam Hospital – which has a number of large wards containing beds and medical equipment where persons infected with the coronavirus receive the health care and medication they require and where vaccinations can be dispensed, with a view to reducing the number of deaths. Medical personnel have been exempted from the partial and total curfews.

176. With the outbreak of the COVID-19 pandemic, the Ministry of Labour and Social Affairs has taken several measures to protect homes for older persons, homes for persons with disabilities and shelters for women and children. It has supplied gloves and masks as well as cleaning and sterilization materials and other public-health necessities. In addition, it has intensified medical testing and has given those categories of persons priority for vaccination.

177. For its part, the Ministry of Justice has taken preventive measures in prisons and juvenile correction facilities. It has supplied medical masks and gloves, which have been distributed to all inmates and staff. It also conducts regular body temperature tests for staff and inmates and ensures that prison medical units are duly supplied with medicines and medical supplies and staffed with medical personnel in numbers commensurate with the number of inmates. Suspected cases of infection are isolated in cells or in special isolation facilities within prisons. Baladiyat prison has been equipped with 100 beds for emergency cases. Sanitizers have been set up at the entrances to correctional facilities and the amount of time inmates spend in the open air has been increased.

178. Six presidential decrees conferring special amnesties were issued in 2020, affecting 492 inmates: Presidential Decree No. 24 was issued on 30 June 2020 and included 30 inmates; Presidential Decree No. 27 was issued on 12 August 2020 and included 103 inmates; Presidential Decree No. 28 was issued on 6 September 2020 and included 95 inmates; Presidential Decree No. 37 was issued on 6 October 2020 and included 90 inmates; Presidential Decree No. 38 was issued on 6 October 2020 and included 50 inmates; Presidential Decree No. 40 was issued on 6 December 2020 and included 31 inmates; and Presidential Decree No. 41 was issued on 13 December 2020 and included 93 inmates. These decrees had the result of reducing the pressure on capacity inside prisons. In addition, the Ministry of Justice released 1,157 inmates in September and October 2021. In the light of the COVID-19 pandemic, convicted children in detention were also released under special amnesty decrees in 2020 and 2021. This affected a total of 55 Iraqi children and 63 children

from Arab or foreign States; 20 children were deported to their countries of origin. Also during the period 2020–2021, a total of 454 juveniles were released from preventive detention.

Reply to paragraph 29

179. The position of Iraq vis-à-vis accession to the 1998 Rome Statute of the International Criminal Court and to the Protocol Additional to the Geneva Conventions is to bide its time until such time as the situation matures to the point that the country will face no restrictions that might harm its progress at the current time. This particularly concerns the need to amend the Criminal Code (Act No. 111 of 1969), the Code of Criminal Procedure (Act No. 23 of 1971) and the Anti-Terrorism Act, which are currently inconsistent with those two instruments.

Reply to paragraph 30

180. Iraq is continuing to study the possibility of acceding to international instruments, including United Nations human rights treaties, analysing mechanisms for their implementation at the national level and selecting the appropriate time for taking such decisions. Furthermore, Iraq has authorized its Independent High Commission for Human Rights to receive individual complaints and communications, which is a step that creates the conditions for studying the possibility of making the declarations.
