



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

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**Committee against Torture**

**Information received from Iraq on follow-up to  
the concluding observations on its initial report\***

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## **Response of the Government of Iraq to the recommendations of the Committee against Torture**

### **Paragraph 11 of the concluding observations**

1. The Committee deplores the severe human rights violations committed by the so-called Islamic State in Iraq and the Levant (ISIL) and associated armed groups, which may amount to war crimes, crimes against humanity and possibly genocide, as stated in the report prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution S-22/1.

### **Response**

2. With respect to the observations made by the Committee against Torture in paragraph 11 concerning the grave human rights violations committed by ISIL terrorists, we concur with the information regarding these violations against civilians in areas that were and still are under its control and that amount to crimes against humanity, as the Committee mentioned. Terrorist elements of ISIL committed genocide in the Wadi Akab massacre at Badoush prison. Some groups of Iraqi people – Yazidis, Turkmens, Christians, Shabak and others – in areas under ISIL control have been subjected to the crime of genocide. The Council of Ministers issued decree No. 92 of 2014 declaring the suffering of groups of Iraqi people – Yazidis, Turkmens, Christians, Shabak and others – at the hands of the ISIL terror group as crimes of genocide. The Camp Speicher massacre that claimed the lives of 1,700 students and unarmed cadets at the military academy is a case in point.

### **Paragraph 12 (a) of the concluding observations**

3. Recalling the Convention's absolute prohibition of torture and the State party's obligations thereunder, the Committee is deeply concerned at the information contained in the above-mentioned report regarding serious human rights violations by the Iraqi security forces and affiliated militia groups in the conduct of military operations. These include grave violations of the Convention, such as torture and ill-treatment, enforced disappearances and extrajudicial killings of prisoners and civilians (*ibid.*, paras. 50–61) (arts. 1, 2, 12, 14 and 16).

4. The Committee recommends that the State party:

(a) Undertake prompt, thorough and impartial investigations into all allegations of torture and other ill-treatment, including enforced disappearances and summary executions, committed on any territory under its jurisdiction.

### **Response**

5. With respect to the Committee's observations in paragraph 12 (a) regarding reports of serious human rights violations by the Iraqi security forces and affiliated militia groups in the conduct of military operations, such as torture and ill-treatment, enforced disappearances and extrajudicial killings of prisoners and civilians, we do not confirm that there are cases of human rights violations against detainees. If such violations do occur, they do not represent the policy or approach of the State or a military establishment but may be carried out by persons or individual entities. If complaints are submitted in relation to allegations of torture, these persons or entities are held responsible for the violation or torture and subject to Iraqi law after truth-seeking committees have been formed in preparation for referring them to the competent investigative authorities.

### **Paragraph 13 of the concluding observations**

6. The Committee is particularly concerned about reports of ISIL fighters raping female captives, and about the fact that this extremist group has instituted a pattern of

sexual violence, slavery, abduction and human trafficking targeted at women and girls belonging to religious and ethnic minorities (see S/2015/203, paras. 28–31). It is equally concerned by reports of sexual violence committed by members of the Iraqi army and militias on all sides of the conflict. The Committee is further concerned at the apparent impunity enjoyed by the perpetrators of such acts (arts. 1, 2, 4 and 16).

7. The State party should take vigorous measures to promote the protection of women and eliminate the impunity enjoyed by the perpetrators of acts of sexual violence in the context of the armed conflict, whether they are State officials or non-State actors; conduct prompt, impartial and thorough inquiries; try the perpetrators of such acts and, if they are found guilty, sentence them to punishment commensurate with the gravity of their acts; and provide adequate redress to victims, including those fleeing ISIL-controlled areas, in particular ensuring that women fleeing such violence have access to shelter, medical and psychological care and rehabilitation and public services, and are able to access such services without discrimination on the basis of gender or other status.

## **Response**

8. Paragraph 13 on sexual violence and its relationship to conflict refers to reports that ISIL terrorists rape female captives and practise sexual violence, slavery, kidnapping and human trafficking against women and girls belonging to religious and ethnic minorities and to reports of sexual violence committed by members of the Iraqi army and militias on all sides of the conflict. We confirm that there have been violations against women and girls, as ISIL fighters have kidnapped, enslaved, abducted and trafficked women and subjected them to sexual violence, especially women belonging to non-Muslim religious minorities. As for the allegations that members of the Iraqi army and supporting militias have engaged in sexual violence against women in conflict zones, no complaints have been registered regarding such acts by the Iraqi army or the forces supporting it. Any complaints have been within a narrow range and have involved individual actions, the perpetrators of which are legally accountable, as stipulated in the relevant Iraqi laws.

## **Paragraph 14 of the concluding observations**

9. The Committee takes note of the procedural safeguards set out in article 123 of the Code of Criminal Procedure (Act No. 23 of 1971), mainly the right to remain silent and the right to be represented by a lawyer before the investigating judge. It regrets, however, the lack of information provided on the measures and procedures in place to ensure the practical application of these and other fundamental legal safeguards to prevent torture and ill-treatment. In that respect, it has been reported that detainees are frequently deprived of timely access to a lawyer and a medical doctor, and of their right to notify a person of their choice. It is also concerned at allegations regarding the failure to maintain accurate registration records, to adequately inform detained persons about their rights and to adhere to the 24-hour limit for detainees to be brought before a judge.

10. The State party should ensure that all detainees are afforded, by law and in practice, all fundamental legal safeguards from the very outset of their deprivation of liberty, including the rights to be assisted by a lawyer without delay, to have immediate access to an independent medical doctor, regardless of any medical examination that may be conducted at the request of the authorities, to be informed of the reasons for arrest and the nature of any charges against them in a language that they understand, to be registered at the place of detention, to inform promptly a close relative or a third party concerning their arrest, and to be brought before a judge without delay.

## **Response**

11. The Committee notes in paragraph 14 of the concluding observations that detainees are not provided with basic legal safeguards, especially the right to remain silent and the right to be represented by a lawyer before the investigating judge, that detainees are frequently deprived of timely access to a lawyer and a medical doctor, and of their right to notify a person of their choice of their detention, and that the State fails to maintain

accurate registration records. In this connection, we wish to point out that the basic legal safeguards for accused or arrested persons have been approved in accordance with the Iraqi Constitution of 2005, particularly article 19. That article states that: "Litigation shall be a protected and guaranteed right for all. The right to a defence shall be sacred and guaranteed in all phases of the investigation and trial. The accused is innocent until proven guilty in a fair legal trial. The accused may not be tried for the same crime for a second time after acquittal unless new evidence is produced. Every person shall have the right to be treated fairly in judicial and administrative proceedings. The proceedings of a trial are public unless the court decides to make them secret. The court shall appoint a lawyer at the expense of the State for persons accused of a felony or misdemeanour who do not have a defence lawyer. Imprisonment or detention shall be prohibited in places other than those designed for these purposes, in accordance with prison laws governing health and social care under the authority of the State. The preliminary investigation documents shall be submitted to the competent judge within a period not exceeding 24 hours from the time of the arrest of the accused, which may be extended only once and for the same period." Article 37 stipulates that the liberty and dignity of the person shall be protected, that no one may be taken into custody or interrogated except by virtue of a judicial decision, and that all forms of psychological and physical torture and inhuman treatment are prohibited. Any confession made under duress, threat or torture shall not be relied upon, and the victim may claim compensation for material and moral damages incurred in accordance with the law.

12. Article 51 (d) of the Code of Criminal Procedure (Act No. 23) of 1971, as amended, also establishes these safeguards. It states that the investigation documents are to be submitted as quickly as possible to the competent investigating judge, and the applicable decisions and actions are subject to the decisions and actions taken by the investigating judge. Article 92 provides that arrest or apprehension of a person is permitted only in accordance with a warrant issued by a judge or court or in other cases stipulated by the law. Article 127 establishes that the use of any unlawful methods to influence the accused and obtain an admission is not permitted. Mistreatment, threats, injury, enticement, promises, psychological influence or use of drugs or intoxicants are considered unlawful methods.

13. The orders of the Coalition Provisional Authority also provide for legal safeguards for arrested persons and detainees, including section 6 of memorandum No. 3 on criminal detentions by the multinational force, which stipulates that the standards applied to persons detained by the coalition forces on criminal charges must be in accordance with the Fourth Geneva Convention. Persons held in the detention centres of the coalition forces are informed of their rights to remain silent and to consult a lawyer. Detainees are informed of the charges against them in a language they understand and have the right to contact the Red Cross. Representatives of the Red Cross are permitted to inspect health, sanitation and living conditions and to interview detainees in private, record information about them and pass messages to and from the families of the detainees. Section 8 of the memorandum indicates that all criminal detainees are entitled to legal advice from a lawyer during the period of detention. In addition sections 3, 4, 5, 6, 7, 8, 9 and 10 of Coalition Provisional Authority memorandum No. 2 deal with personal hygiene, clothing, food, exercise and sport and medical services for detainees.

14. Pursuant to the provisions of the Constitution, the Code of Criminal Procedure and memoranda of the Coalition Provisional Authority, all institutions involved in arrest and detention are subject to periodic inspection and monitoring. Specialized task forces dealing with the situation of detainees undertake inspection and follow-up visits to ensure that all the humanitarian, health and service conditions and standards established in the Constitution and international agreements and treaties in this area are met. Detainees are allowed to appoint a lawyer to defend them and submit the investigation documents to the competent courts for adjudication, and to have their state of health monitored by visiting the attending physician and receiving the appropriate treatment. All detention facilities keep a register for the Special Rapporteur on torture. Furthermore, attention is paid to the quality and quantity of food provided to detainees, in accordance with a schedule established by the Iraqi Department of Corrections. Detainees are allowed to receive family visits. Women and children are not held together with men, but are placed in separate facilities. These safeguards are established in accordance with the aforementioned laws and are applicable to arrested persons and detainees. Every arrested person or detainee has the right to enjoy these safeguards; failure to provide them is considered a violation of the law.

**Paragraph 16 (a) of the concluding observations**

15. The Committee remains concerned at information pointing at a consistent pattern whereby alleged terrorists and other high-security suspects, including minors, are arrested without any warrant, detained incommunicado or held in secret detention centres for extended periods of time, during which they are severely tortured in order to extract confessions. According to allegations received by the Committee, the detention facility at the former Al-Muthanna military airport in West Baghdad, which was uncovered in 2011, is still open and continues to operate secretly under the control of the 54th and 56th Brigades of the army (arts. 2, 11, 12, 15 and 16).

16. The State party should:

(a) Ensure that no one is detained in any secret detention centres, as these facilities are per se a breach of the Convention and should be closed. The Committee urges the State party to investigate and disclose the existence of any other such facility and the authority under which any of them has been established. It should also bring all legal detention facilities under the exclusive authority of the Ministry of Justice.

**Response**

17. Paragraph 16 (a) refers to secret detention. We deny the existence of secret detention centres that are not registered as official facilities for holding arrested and detained persons. Detention centres must be registered in accordance with the law, and no entity may use a place of detention without formal official approval. If such centres are found, the individual groups operating them shall be held accountable before the law. All those detained following a conviction for terrorist activities are placed in centres supervised by the Ministry of Justice. The Committee's observation that the central prison at Al-Muthanna airport is operating secretly is based on absolutely incorrect information. The prison in question was established in 2005 and accommodates an investigative and judicial body affiliated to the Central Investigative Court that investigates the cases of detainees and refers those found to be involved in terrorist acts to the competent courts and releases those who have not been found guilty. Women and juveniles may not be held at this centre, but are immediately placed in the appropriate facilities of the Ministry of Justice. This prison meets all the humanitarian and legal conditions for a place of detention and is subject to regular inspection visits by the committees of the Directorate of Human Rights of the Ministry of Defence, the Parliamentary Human Rights Committee and the International Committee of the Red Cross. Their reports commend the actions taken and services provided by the prison administration in respect of detainees.

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