



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 second periodic report*

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Reply to the concluding observations on the second periodic report of Iraq on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2023

I. Introduction

1. Further to paragraph 44 of the concluding observations, which refers to the follow-up procedure under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government of Iraq hereby submits a report on the priorities that the Committee against Torture identified in the concluding observations on the second periodic report of Iraq ([CAT/C/IRQ/CO/2](#)) and should like to provide the following information.

II. Follow-up information

A. Follow-up on paragraph 9 of the concluding observations

Definition and criminalization of torture

2. The second reading of the anti-torture bill was completed at the fourth parliamentary session of the Council of Representatives and the bill was tabled for a vote. However, the vote was not held before the session ended. The parliament's Human Rights Committee accords importance to the Bill as part of its own strategy and has asked the Office of the Speaker to put it back on the schedule for a first reading at forthcoming sittings with a view to completing the legislative process.

3. According to article 37, paragraph 1 (a), of the Constitution, all forms of psychological and physical torture and inhuman treatment are prohibited. No reliance should be placed in any confession that is obtained under force, threat, or torture, and victims are legally entitled to seek compensation for material and moral damage inflicted on them as a result of such treatment. The law prohibits the use of torture of any kind, as stated in article 333 of the Criminal Code.

4. With regard to the adoption of the anti-torture bill and the question of ensuring that it covers all the elements contained in article 1 of the Convention, the Council of State reviewed the Bill on the Prohibition of Torture and Inhuman Treatment in 2021. Penalties of up to 10 years in prison are prescribed for the commission of any of the acts of torture enumerated in article 1, paragraph 1, of the Bill. The penalty is increased to life imprisonment if the victim of the offence suffers a permanent disability as a result of the torture or if the crime was committed against a woman or a child with special needs. The penalty is death if the torture causes the victim's death. In the Bill, the legislature also refers to the application of the Criminal Code (Act. No. 111 of 1969) and the Code of Criminal Procedures (Act. No. 33 of 1971).

5. The subject is addressed in the draft of the Criminal Code, which is subject to review by the secretariat of the Council of Ministers – the Legal Department – and has now been submitted to the Prime Minister's Office.

Region of Kurdistan

6. A procedure is in place for the adoption of an anti-torture law, and a bill has been drafted by the Kurdistan Parliament. The first reading was held on 1 March 2023, and the legislature has taken account of the general principles laid down in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).

7. The Kurdistan Regional Government is taking effective judicial and administrative measures: the public prosecution service investigates cases of torture in detention, removal and corrections facilities, and officers have been deployed in these facilities to ensure that

detainees are not being subjected to ill-treatment or torture. This makes it easier to monitor prisoners and detainees and to prosecute police and security officers when they are proven to have subjected inmates to torture.

8. In 2021, four law enforcement officers were prosecuted for using violence against inmates. They were issued with a warning, docked three months' pay and moved to other locations where they would have no direct dealings with inmates.

9. Convicted prisoners and detainees in prisons, corrections facilities and detention and custody centres are separated by category, meaning by the type of offence and sentence, by age, sex, legal status, gravity of the crime, health status and even social situation, in some cases. This practice is very helpful for the establishment of individualized rehabilitation programmes.

B. Follow-up on paragraph 11 (a) of the concluding observations

10. Iraqi law, in particular the Code of Criminal Procedures (Act No. 23 of 1971), provides accused persons with a large and sufficient number of guarantees, including the right to engage a lawyer or to have one appointed on their behalf if they cannot afford to do so themselves, in which case the State will pay the appointed lawyer's fees and costs. According to the Constitution, accused persons have the right to remain silent and may refuse to answer questions. Torture is prohibited, and accused persons cannot be coerced into making a confession or a statement.

11. The Criminal Code (Act No. 111 of 1969) prescribes penalties for committing acts of torture. This offence is classified as abuse of office by a public official pursuant to article 333 of the Code. The Iraqi legislature exempts no individuals from liability for committing this offence, whatever the circumstances may be. Indeed, it strengthened the guarantees afforded to accused persons who are tortured pursuant to article 218 of the Code of Criminal Procedures (Act No. 23 of 1971), which states that a confession must not have been obtained under duress. This is all in keeping with the principles set out in articles 15, 19 and 37 of the Constitution.

12. Article 3 (10) of the Prisoner and Detainee Reform Act No. 14 of 2018 states: "It is prohibited to inflict torture, degrading, harsh or humiliating treatment or hard labour upon prisoners or detainees. The commission of any of these offences shall be deemed an aggravating circumstance."

13. Fundamental legal safeguards are provided to prisoners in the form of opportunities to communicate with lawyers and processes to facilitate the work done by such lawyers.

14. Persons in detention are entitled to seek an independent and confidential medical examination and treatment, whether they request this themselves or their family members do so.

15. The Iraqi Correctional Service and the courts work together to ensure that detainees are notified to appear and brought before the Iraqi courts within the time frames specified by the judicial authorities.

16. In reform homes and schools, there is a (permanent or visiting) medical practitioner whose job it is to facilitate access to medical services and examine young persons who are sick. There are medical centres in all detention and custody facilities.

17. The Social Research Section of the Juvenile Reform Service is responsible for notifying family members whenever a juvenile is placed in a reform school or institution after the social processes have been completed.

18. In accordance with the Criminal Code (Act No. 111 of 1969), legal action will be taken against any official entity that detains individuals or accused persons for a prolonged period of time without bringing charges or that delays the referral of such persons to those responsible for conducting investigations. Regular and unannounced visits can be made to all prisons and detention facilities by prosecution service judges in order to ensure that there

are no violations of the guarantees afforded to accused persons, in particular with respect to their appearance before a court within the time frames specified by law.

19. The public prosecution service monitors and inspects the facilities run by the Iraqi Correctional Service and the Juvenile Reform Service and submits monthly reports on them to the relevant agencies in accordance with article 5 (9) of the Public Prosecutions Act No. 49 of 2017. Permanent offices of the public prosecution service were set up in reform institutions to receive complaints on related matters.

C. Follow-up regarding paragraph 11 (c) of the concluding observations

20. In line with the direction set by the Government of Mr. Mohammed Shia' al-Sudani, the Government has made sure to protect general freedoms and apply and ensure compliance with human rights norms through the establishment of a cell in the Prime Minister's Office that liaises with the Ministry of the Interior to follow-up on violations of human rights norms, address any negative conduct that occurs in police stations and holding facilities, and prosecute the offenders. A legal team has been established to review the work that was done by investigation panels in the past when looking into the killings of protestors and members of the security services and into the action taken to punish the killers and prevent impunity.

21. The Prime Minister gave instructions to commence a review of the issue of torture in Iraqi prisons through the gathering of reports and complaints about persons who are shown to have been subjected to any form of torture or to the extraction of a confession under duress. It is possible to submit complaints, accompanied by evidence, directly to the Adviser to the President of the Human Rights Council by email. Another inbox has been set up for complaints to be addressed to the Private Secretary of the Commander-in-Chief of the Armed Forces.

22. The Supreme Judicial Council follows up on complaints of torture. It has directed the human rights courts to receive and investigate the complaints, to send claimants for examination by medical panels in order to ascertain the veracity of the allegations and to take whatever action is needed with respect to the offending individual or entity, if the allegations are found to be true. As for respect for legal safeguards, as requested, a table with statistics on the number of complaints filed with the Human Rights Council between 2021 and 1 September 2022 is provided below.

<i>Requested statistics for 2021 to 1 September 2022</i>		
<i>Descriptors</i>	<i>Years</i>	
	<i>2021</i>	<i>2022 (to 1 September)</i>
Complaints of torture before investigation courts	2 884	4 725
Decisions on allegations of torture issued by the relevant courts	24	19
Number of cases involving young person's brought before the courts for belonging to Islamic State in Iraq and the Levant (ISIL), also known as Da`esh	907	471
Number of cases involving children born of rape carried out by Da`esh	0	0
Number of cases involving fatal accidents of prisoners	7	9
Number of cases of forced abduction	117	12

<i>Requested statistics for 2021 to 1 September 2022</i>		
<i>Descriptors</i>	<i>Years</i>	
	<i>2021</i>	<i>2022 (to 1 September)</i>
Number of cases of excessive use of force	3	4

23. The mechanism for filing young persons' complaints can be direct submission to committees and teams on the ground that are sent by the Service to reformatories and reform schools and that then take the necessary legal action. Otherwise, reports may be filed by a reformatory or reform school and then action will be taken and perpetrators will be held to account if the complaints are proven to be founded.

24. The Monitoring Section of the Human Rights Department at the Ministry of Justice monitors the human rights situation with a view to identifying violations. Monitoring teams are deployed on the ground whenever reports are filed about human rights violations in facilities run by the Iraqi Correctional Service and the Juvenile Reform Service. Legal infringements are also reviewed, investigated and assessed and proposals are made for addressing them with the authorities.

25. The Human Rights Directorate in the Ministry of Defence receives complaints about violations from the Supreme Council of the Judiciary, representing the specialized courts, the High Commission for Human Rights, the Ministry of Justice and the International Committee of the Red Cross. Information contained in complaints is scrutinized, preliminary investigations are undertaken and their legal status is established to the extent that they are a matter for the Ministry of Defence.

26. The Iraqi Ministry of Defence applies article 333 of the Criminal Code (Act No. 111 of 1969), as amended, to accused persons who are alleged to have committed torture or human rights violations. Under the Code, the accused must be sent before the civil criminal courts, if the offence was committed by a member of the military against a civilian.

27. The Human Rights Directorate of the Ministry of Defence monitors and seeks to prevent human rights violations by members of the Iraqi Armed Forces. It sets up fact-finding panels to look into cases of torture, enforced disappearance and extrajudicial killings that may occur during military operations and provides complaints hotlines. It also focuses on awareness and education programmes to instil human rights principles in the Iraqi army and appoints rights officers to monitor violations in military units and teams.

28. The Ministry of the Interior transmitted files on investigations of a group of officers and men to the Internal Security Forces Court to look into charges involving the commission of torture. Convictions were handed down and the files sent to the civilian courts for review.

The region of Kurdistan

29. Act No. 15 of 2010 provides for the payment of compensation to prisoners and convicted persons who are acquitted and released in the region of Kurdistan. The Act defines the fundamental rights that preserve the dignity of the accused. Accused persons must be afforded all guarantees that safeguard their innocence, if they are innocent, while the investigating authorities retain the right to infringe the personal freedom of the accused in order to arrive at the truth, provided that they do not act outside the limits set down in law. This is not regarded as a violation of the right to presumption of innocence but rather as a necessity in order to deliver justice and uncover the truth.

30. Accused persons are entitled to appoint and have the assistance of a lawyer. If they do not have the means to do so, the court must appoint a lawyer for them, free of charge.

31. Before an accused person is interrogated, the investigating judge or investigator must ask if that person would like to have a lawyer present. If the answer is yes, the investigating judge or investigator must refrain from interrogating the accused until the lawyer has been appointed or selected by the court. This applies to cases involving serious and other crimes.

32. When a lawyer is appointed for a defendant, the court will specify, when rendering judgment on the case, what fees are to be paid. The fees will be borne by the region's treasury and the appointment will be considered as a decision taken by proxy. If a lawyer asks to be excused from performing the role on legitimate grounds, the court must appoint a different lawyer.

33. The cost to the regional government of appointing lawyers for suspects and accused persons who could not afford legal representation is over 1.7 billion Iraqi dinars.

34. Health services were delivered to prisoners in correctional facilities following the coronavirus disease (COVID-19) epidemic by teams that operate on the ground and are organized by the Ministry of Health. The teams conduct PCR tests in correctional facilities and detention centres and make sure that all inmates, without exception, are vaccinated.

D. Follow-up concerning paragraph 21 of the concluding observations

35. Iraqi laws guarantee the protection of women during and after the outbreak of conflict. Examples include the Criminal Code (Act No. 111 of 1969), where articles 393 and 394 deal with the crimes of rape and sodomy, article 421 deals with the crime of abduction, and articles 405 and 406 deal with murder crimes. Article 2 of the Anti-Terrorism Act (No. 13 of 2005) deals with acts of terrorism, including violence, threats and abduction, and prescribes the death penalty or imprisonment for such crimes. Article 1, paragraph 1, of the Act on the Suppression of Human Trafficking (No. 28 of 2012) deals with criminal acts such as the transfer, enlistment or harbouring of persons or the use of threats, force, abduction, fraud, deception or abuse of power to sell or force a person to engage in prostitution, acts of sexual exploitation or slavery, begging or forced labour or to traffic that person's organs. The Act prescribes a penalty of imprisonment for these offences.

36. The Supreme Council of the Judiciary has taken steps to deal with crimes of sexual violence in the context of conflict. Just as soon as the areas formerly under the control of the terrorist organization Da`esh were liberated, including Sinjar, Nineveh Plains and Tall Afar, the Council reopened all the courts there, including the investigation courts. Investigating judges began taking legal action to deal with these kinds of crimes, registering statements given by complainants, collecting evidence and issuing arrest warrants for the perpetrators. The statements and confessions of the accused were recorded and the individuals were tried before the criminal courts and given appropriate punishments.

37. The Council of Ministers issued Decree No. 92 of 2014 declaring what had happened to the Yazidi, Turcoman, Christian, Shabak and other members of the Iraqi population at the hands of the terrorist gangs of Da`esh to be a crime of genocide.

38. The Yazidi Survivors Act (No. 8 of 2021) was passed, together with Directive No. 4 of 2021. Moreover, Ministerial Order No. 1057 was issued on 16 August 2022 providing for the establishment of the Directorate for Women Survivors at the Ministry of Labour and Social Affairs. Ministerial Order No. 342 was issued on 9 March 2022 on the establishment of a committee to review applications from women survivors and the groups covered by the above-mentioned Act. The committee currently receives applications via a dedicated portal on the Ministry's website and this includes the survivors covered under Act No. 8 of 2021. The General Directorate for Survivors' Affairs in the Ministry cooperated with the National Database Centre in the secretariat of the Council of Ministers and drew on support from the International Organization for Migration to create an e-portal for female and male survivors of the terrorist organization Da`esh, pursuant to the Survivors Act. This offering is extended to Yazidis, Christians, Turcomans and Shabaks and boys below the age of 18 who were rescued from the Da`esh terrorist organization and from killing and ethnic cleansing operations. The committee is chaired by a judge with competence to review applications and endorse them within 90 days of submission, subject to the fulfilment of all the set conditions. Applications can be submitted at any time of the day or night, and there is no time limit for the electronic submission.

39. Article 4 of the Yazidi Survivors Act (No. 8 of 2021) addresses the issue of the damage caused by the crimes of the Da`esh organization against Yazidis, Christians, Turcomans and

Shabaks, particularly children and women, such as crimes of sexual violence, abduction, sexual enslavement, sale on the slave market, forced marriage, impregnation and abortions, and the infliction of physical and psychological harm. The purpose is to grant the right to reparations, rehabilitation and social reintegration. The Code of Criminal Procedures (Act No. 23 of 1971) states that victims have the right to submit complaints and apply for compensation for material and moral damages that they have suffered.

40. A total of ID 678,000,000,000 was allocated under the Emergency Food Security and Development Act (No. 2 of 2022). The Ministry of Labour and Social Affairs is responsible for providing social welfare protection and special needs coverage and must ensure that this support is distributed based on the population sizes in the governorates. Funding in the amount of ID 25 billion has been provided pursuant to the Yazidi Survivors Act.

41. Visits were made to the families of survivors of Da`esh terrorist gangs in Baghdad, the governorates and the region of Kurdistan and in-kind assistance was provided in coordination with humanitarian organizations. Psychological support was offered to these women in displaced persons camps.

42. In the framework of the Second National Plan adopted pursuant to Security Council resolution 1325 (2000), on women, peace and security, the Central Bank instructed all banks to allocate 25 per cent of facilitated loans to working women, widows and women survivors of the conflict in order to support their investment projects. In addition, the Ministry of Labour has issued 8,052 loans for integrated projects to small and medium-sized enterprises through the Support Fund for Income-Generating Microprojects and 1,490 loans under the Poverty Reduction Strategy.

43. In order to ensure women's participation pursuant to Security Council resolution 1325 (2000), the Government launched the Second National Plan for Implementation of the Resolution and the Implementation Plan on the Joint Statement on Sexual Violence. Both plans focus on protection of women and girls impacted by the armed conflict and gender-based violence and on ensuring that the perpetrators do not escape punishment. They include the following goals:

- Protecting women and girls, particularly those in camps, areas for displaced persons and places of return
- Ensuring accountability and the delivery of justice to prevent impunity for perpetrators
- Protecting impacted women and girls from sexual violence and reintegrating them into society
- Expediting the enactment of a law on protection from domestic violence

44. The Council of Ministers adopted the National Strategy to Combat Violence against Women (2018–2030), which is designed to strengthen the rights of Iraqi women at all stages of life, protect them from all forms of discrimination and violence and reduce the impact of such treatment on them. The strategy has four key areas of focus (prevention and care, protection, policies, and implementation). The strategy draws on sources that include treaties relating to women's rights and human rights, and the Constitution, which contains several articles on equality of women and men before the law.

45. An investigation and fact-finding team has been formed, based on the functions of the Committee on Enforced Disappearances, and is chaired by the Ministry of Justice. It includes a number of organizations involved in organizing visits to locations and camps to search for Yazidi missing persons in the Sinjar province in the governorate of Nineveh and in the governorate of Dohuk.

46. The National Strategy for Iraqi Women, 2023–2030 was launched pursuant to Council of Ministers Decree No. 23129 of 2023. Its core areas of focus are political participation, legal protection, social protection and economic empowerment. An implementation plan has also been put in place.

47. Treatment, support and rehabilitation centres have been established for women who survived being captured by Da`esh in the governorate of Dohuk. Fifty centres were opened

up to raise awareness and provide psychological and health services in the camps in the region of Kurdistan.

48. A rehabilitation centre for women who had been rescued was set up by the Directorate of Yazidi Affairs in the Ministry of Endowments (*Awqaf*) and Religious Affairs and the United States organization CRI. The number of women beneficiaries is around 163.

The region of Kurdistan

49. In the region of Kurdistan, steps were taken to update the 10-year National Strategy to Combat Violence against Women (2017–2027), which focuses on the legal, prevention, protection and care-related aspects of the issue. The Public Directorate for Combating Violence against Women worked with international organizations, United Nations agencies and civil society to set up 23 roving teams that would facilitate the work and the delivery of assistance and services to displaced persons and refugees in all towns of the region. Every year over 1,500 cases of violence are registered. A number of these cases are being addressed and others are being sent to the specialized courts for the initiation of legal proceedings.

Documentation of the crimes of Da`esh

50. With a view to documenting terrorist crimes that Da`esh committed against Yazidis and other groups and to freeing Yazidi women being held in captivity, the regional government compiled thousands of files on abducted persons. A total of 5,170 cases that had been processed were registered, together with 2,324 there were before the courts, 2,000 that remain under investigation, and 2,916 cases of missing persons (1,860 men and 1,056 women). Proceedings in cases involving 60 mass graves and 65 places where mass graves have been found were registered. Psychosocial support has been provided to 2,234 victims, of whom 1,441 are women and 793 are men. Many of these persons are below 18 years of age.

51. In its effort to document the crimes committed by Da`esh, the regional government has worked with “UNITED” as part of the NGO Coordination Committee for Iraq to document the crimes committed by Da`esh. More than 73,912 pages of documents have been archived on these crimes. A high-level ministerial committee was set up to recognize the crimes committed by Da`esh as crimes of genocide.

Liberation of captives

52. The regional government has made intensive efforts to liberate those who are being held in captivity. It formed a committee to gather information and follow up on cases of abduction and allocated a budget for this work. After captives are liberated, the government provides them with what they need to help with accommodation and reintegration into society. The regional government will continue to work tirelessly to liberate all those being held captive.

- Statistics on the numbers of captives who have been liberated from Da`esh
 - A total of 6,417 persons:
 - 3,548 women
 - 2,869 men
 - Numbers of persons who survived being held by the terrorist group Da`esh
 - A total of 3,652 total:
 - 1,215 women
 - 339 men
 - 1,051 girls
 - 957 boys

53. The regional government has done everything in its power to provide treatment to women survivors. Further to an agreement that it concluded with the Government of

Germany, more than 1,000 women survivors have been sent to Germany for treatment, especially psychological care.

Follow-up regarding paragraph 31 of the concluding observations

54. Iraq has a clear position on the death penalty. The Criminal Code and the Anti-Terrorism Act prescribe the death penalty for the most serious crimes, notably murder, crimes against the internal or external security institutions of the State and acts of terrorism. The death penalty exists because of the extraordinary security situation that the country is facing and it is a response to acts of terrorism. Moreover, it provides justice to scores of victims of violence and terrorism. It is only carried out pursuant to a presidential decree and in accordance with the procedures set out in the Criminal Code (Act No. 111 of 1969, as amended).

55. The draft Criminal Code that was submitted by the Supreme Council of the Judiciary and has been closely examined by the Council of State takes account of the fact that the death penalty only applies to those crimes that pose the gravest threat to society.

Region of Kurdistan

Death penalty

56. In keeping with international human rights principles and treaties, the region of Kurdistan considers the delivery of justice and protection of human rights to be among its key goals. It enacts and implements laws in keeping with the international human rights treaties that apply in this area.

57. The death penalty is a subject to which the Government of Kurdistan pays due care, notwithstanding the difficult circumstances that the region has faced, particularly during the Da`esh war. The penalty has been suspended and was only carried out in very rare cases involving major crimes that shook society and that were a matter of significant public concern.
