



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

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Committee against Torture Seventy-third session

Summary record of the 1890th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 27 April 2022, at 3 p.m.

Chair: Mr. Heller

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

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

Second periodic report of Iraq (continued) (CAT/C/IRQ/2; CAT/C/IRQ/Q/2; CAT/C/IRQ/RQ/2)

1. *At the invitation of the Chair, the delegation of Iraq joined the meeting.*
2. **Mr. Salar Abdulsattar Mohammed** (Iraq) said that Iraq did not have tribal courts, but rather only tribal sessions, the aim of which was to facilitate reconciliation.
3. **Ms. Al-Nuaimi** (Iraq) said that, under Iraqi law, refugees could not be extradited to their home countries under any circumstances. The standing committee for refugees in the Ministry of the Interior could decide to repatriate unsuccessful asylum applicants to third countries if they faced real dangers in their home countries. A memorandum of understanding on non-refoulement had been signed with the Office of the United Nations High Commissioner for Refugees, pursuant to which the standing committee was cooperating with the Office to examine requests for repatriation to third countries. The deadline for ruling on such requests was one year, with a possible extension of a further year. More than 32,000 individuals in Iraq had legal refugee status. The standing committee submitted recommendations on asylum applications to the Minister of the Interior for approval, and the President of Iraq had the power to overturn any decision within a 15-day window.
4. Iraqi law did not provide for the punishment of individuals on the grounds of sexual orientation, except in cases that represented an affront to public freedom or social or religious order or that involved sodomy, prostitution or the violation of children's rights. Decisions regarding sexual orientation were treated as an individual choice. As public morality and the Islamic sharia were the keystones of Iraqi society, any attacks on persons of alternative sexual orientations were individual acts motivated by the prevailing culture's rejection of those sexual orientations, rather than by any discriminatory provisions in Iraqi law. While the law did not recognize any separate rights for persons of alternative sexual orientations, any acts of violence against such persons constituted criminal offences in accordance with the law and were handled by the judiciary in the same manner as violations against all other persons. Offenders were punished severely and without impunity.
5. **Ms. Barakat** (Iraq) said that, in 2014, members of Da'esh had conducted attacks against numerous minority communities in Iraq, during which thousands of individuals, primarily women, had experienced sexual violence. The Government had made extensive efforts to support the survivors and prevent further sexual violence. In 2021, it had issued the Yazidi Female Survivors Act and established the General Directorate for Yazidi Survivors in the Ministry of Labour and Social Affairs in order to provide comprehensive services for survivors. Executive instructions on the implementation of the Act had been published. Committees had been established to examine support requests from victims and oversee the transport of survivors to Baghdad to receive medical care, and branches of the General Directorate were being established in Mosul and Sinjar to provide services to victims locally. Female survivors received free identity cards, education support, social security payments and compensation, and access to workshops. The Yazidi Female Survivors Act did not prevent survivors from also claiming compensation through other local laws. Steps were being taken to expand eligibility for support to all female survivors. Many programmes were conducted in cooperation with international organizations.
6. **Ms. Mohsin** (Iraq) said that a bill on preventing domestic violence was currently receiving its first reading in the parliament. A high-level committee for women's affairs had been established to follow up on the bill's development. The Criminal Code had been amended to eliminate various discriminatory provisions, among them those granting reduced penalties for rapists who married their victims and for men who killed a female family member in connection with adultery.
7. The legal age of majority in Iraq was 18. Minors over the age of 15 could marry if granted permission by a judge and their guardian, following a medical examination to prove that the minor was fit for marriage. Forced marriage was illegal; any marriage contract found

to have been signed under duress was invalid, and the perpetrator could be punished by imprisonment for up to 3 years and/or a fine.

8. Specialist investigating bodies and criminal courts had been established to hear cases of domestic violence, and judges had received training on investigating and preventing violence against women. A national plan for the implementation of Security Council resolution 1325 (2000) had been adopted for the period 2021–2024; the plan included measures to prevent all forms of violence against women and girls and combat impunity. Committees had been established to investigate cases of violence and terrorism against minorities, draw up a national suicide prevention strategy, support the role of women in peacebuilding and examine the situation of women prisoners.

9. Training courses on preventing violence against women had been conducted for members of the security forces, and the code of conduct for the security forces had been amended to include information on women and justice. Hotlines for reporting cases of violence had been launched by the Community Police Directorate and the Directorate for Family and Child Protection from Domestic Violence in the Ministry of the Interior. A number of centres for female victims of gender-based violence had been opened, and more were planned.

10. The procedures allowing female divorcees to claim maintenance had been streamlined, and the National Strategy to Combat Violence against Women had been updated. The Supreme Judicial Council had issued a directive giving priority to domestic violence cases and strengthening the legal procedures in cases of abuse. The media code of conduct had also been revised to increase protections for women.

11. More than 30 physical and mental health centres, as well as numerous schools with many thousands of students, had been established in camps for internally displaced persons throughout the country. Female victims of terrorism were eligible for financial grants to help them purchase land or return to education. The Jeddah Centre for Psychological Rehabilitation was providing support to victims of terrorism and internal displacement, primarily women and children. In 2020 and 2021, all camps for internally displaced persons in the liberated regions had been closed down, and a high-level committee had been created to oversee the transfer of Iraqi families from camps in the Syrian Arab Republic to the Jeddah Centre. The Centre provided specialist mental health care, including social and psychological rehabilitation, and operated a school for child victims. A security team had been established to ensure safe transfers from the camps. Hundreds of families had thus far received support to help them voluntarily leave camps in the Syrian Arab Republic and Turkey.

12. The State provided financial support to the families of the 8 women who had died and the 12 women who had been injured during the 2019 uprising. A national women's strategy aligned with the Sustainable Development Goals was under development for the period 2023–2030.

13. **Mr. Abo Senah** (Iraq) said that a digital file for each prisoner was created by the reception unit at each detention facility on the basis of the information provided by the arresting authority, including the reason for arrest. The prisoner's fingerprints were taken and transferred to the appropriate office, and prisoner files were organized according to the prisoners' numbers. With regard to unannounced visits to facilities, the law provided that organizations could meet freely with prisoners without interference.

14. All women's prisons were managed exclusively by women; no men were allowed to enter. The State was building new prisons and enlarging existing ones in order to alleviate overcrowding. Just under 1,900 women convicts were in detention, of whom 878 had been convicted of criminal offences and the remainder of terrorism offences. Some 175 children lived with their mothers in prison. Women prisoners had access to arts and crafts workshops and to education programmes to promote literacy; thus far, some 600 women had participated in such activities. The specific needs and rights of mothers and pregnant women were respected, including the need for privacy. Children up to the age of 3 could remain with their mothers so that they could be breastfed. Numerous shelters for newly released female convicts had been established, providing health care, rehabilitation programmes and a safe environment for children.

15. No cases of torture in prison had been recorded in Iraq. Inmates could submit complaints of torture to the director of the prison where they were held, following which they would undergo a medical examination. Complaints were then transmitted to the head of the Iraqi High Commission for Human Rights and other competent authorities. Various entities were responsible for ensuring that torture was not practised.

16. Pursuant to a ministerial decree, numerous measures had been taken to prevent the spread of coronavirus disease (COVID-19). An awareness-raising unit had been established, and detention facilities had been given instructions on social distancing, cleaning procedures, mask use and isolation of infected prisoners. Testing and vaccination were carried out in coordination with the Ministry of Health, and ad hoc committees had been established to inspect the implementation of preventive measures. Failure to comply was punishable. Resources had been allocated to support such measures.

17. The Department of Corrections had a special section that provided support to inmates with mental disabilities, who currently numbered 196. Their condition was regularly assessed by a medical panel and they were then referred for appropriate treatment and rehabilitation, which continued even after their release. Such inmates were able to maintain regular contact with their families. The inmate Ayesh Al Harby had been visited by a lawyer, under United Nations auspices. The authorities were currently considering the possibility of deporting him, at his own request, to a third country.

18. A section for follow-up care, which was part of the Department of Juvenile Corrections, concerned itself with the welfare of juvenile offenders following their release. The section sought to find shelter for young persons who would otherwise remain homeless, provided the possibility of vocational training and, in general, worked to rebuild their self-confidence and facilitate their reintegration into the life of society.

19. **Mr. Salar Abdulsattar Mohammed** (Iraq) said he wished to announce that he had just received a request from the United Nations Office on Drugs and Crime to visit juvenile detention facilities in Iraq. He intended to accept the request and to arrange the visit as soon as the forthcoming Eid celebrations were over. That was one instance of the ongoing close cooperation between the Ministry of Justice and United Nations bodies.

20. **Mr. Al-Luhaibi** (Iraq) said that the Criminal Code envisaged mitigating circumstances under which the penalty for certain crimes could be reduced or waived altogether. Such circumstances included response to affronts against honour and to serious and unjustified provocation. The courts were required to exercise their discretion in interpreting and recognizing such circumstances, but they were not free to do so arbitrarily; for example, no mitigating circumstances could be recognized in cases involving abduction.

21. **Mr. Salar Abdulsattar Mohammed** (Iraq) said that mitigating circumstances served to provide some kind of redress to persons who had been grievously wronged, and the fact that such circumstances were envisaged showed just how advanced the Iraqi Criminal Code was. In fact, over recent years, in application of article 130 of the Code, 202 death sentences had been commuted to terms of imprisonment.

22. **Mr. Al-Ogaidi** (Iraq) said that, despite the immense security challenges it faced, Iraq had continued to provide its security forces with training on human rights and international humanitarian law. A human rights guide for the military, the first of its kind in the country, had been produced in booklet form by the Ministry of Defence. The guide had been distributed to the country's four military academies, where it had been integrated as an important part of the curriculum in students' third and final year of study. The guide covered general human rights principles and, more specifically, those contained in the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance. It also addressed the management of prisons and other detention facilities and the reporting of violations. Training on the guide was also provided to existing military personnel and to civilians working for the military while, for their part, instructors at military institutes received guidance on how to train their students in the use of the guide.

23. Human rights officers in military units worked to raise awareness about the rights of combatants and of military and civilian detainees and, more generally, to disseminate a culture of human rights among military personnel. Ministry of Defence staff received training

on the Convention against Torture and on how to receive, verify and process complaints and refer them to the competent authorities.

24. The Ministry of Defence had run a total of 500 training courses in the period 2016–2022, which had been attended by 9,360 military and civilian personnel. Training was provided in cooperation with bodies such as the Office of the United Nations High Commissioner for Human Rights, the International Committee of the Red Cross (ICRC) and the United Nations Assistance Mission for Iraq (UNAMI). Working with the North Atlantic Treaty Organization Mission in Iraq, the Ministry of Defence had produced a code of conduct for soldiers in peacetime and wartime; 40,000 copies had been printed and distributed to members of the military and security services in a durable pocket-sized format for use in the field, and there were plans to train personnel in its use. The Ministry of Defence had also printed and distributed posters intended to raise awareness among military personnel about the issues of torture and enforced disappearance.

25. In administering prisons and other detention facilities, security forces and the Ministry of Defence remained bound by the Constitution and the law, under which all forms of torture and ill-treatment were prohibited. Personnel found to be responsible for acts of torture or ill-treatment were referred to the ordinary courts, where they could be tried under article 333 of the Criminal Code. The Human Rights Directorate in the Ministry of Defence acted to ensure that civilian detainees were able to enjoy all their rights under the law, including the right to appoint a lawyer, to communicate with the outside world and to receive visits. Upon being admitted to a facility, detainees were required to complete a medical questionnaire and were examined by a doctor for signs of torture. All reports of torture were duly investigated and, if verified, the appropriate action was taken. The effective fulfilment of detainees' fundamental rights was monitored by a committee led by a judge from the Supreme Judicial Council. It was important to note that acts of torture represented instances of individual behaviour and were not a regular military practice. Detention facilities were regularly inspected by the Iraqi High Commission for Human Rights and ICRC, among others. The Prime Minister had recently made an unannounced visit to the prison in Al-Muthanna Airport, following which he had expressed his praise and appreciation for the work of the prison administrators.

26. **Mr. Salar Abdulsattar Mohammed** (Iraq) said that, as part of its commitment to implementing human rights standards, the current Government under Prime Minister Mustafa Al-Kadhimi had withdrawn a number of court cases that the previous administration had brought against civil society organizations following the demonstrations of October 2019.

27. **Mr. Al-Obaidi** (Iraq) said that ratified international treaties had the same standing as ordinary law. However, provisions in such treaties that envisaged the criminalization of certain actions could not be applied until appropriate national legislation had been passed. Other provisions, such as those concerning training, could be implemented directly. Officials charged with torture were excluded from the investigations into their acts and could be suspended from duty until those investigations were complete. Complainants, moreover, could request that the investigation be transferred to another location in order to ensure that it could not be influenced by persons involved in the alleged acts.

28. Human rights were amply covered in training courses run by the Judicial Institute and the Judicial Development Institute, both as a stand-alone subject and as part of other courses. After qualification, judges participated in refresher courses and workshops on human rights and other subjects.

29. The human rights activist Ali Akram al-Bayati had made statements to the media concerning torture that had been interpreted as an accusation against a particular organ of State. A complaint had been made, but it had since been dropped and there were currently no legal proceedings in that connection. The Federal Supreme Court had recently found that article 16 (4) of the High Commission for Human Rights Act was unconstitutional because it was inconsistent with the principle of equality enshrined in article 14 of the Constitution. Thus, following the publication of the Court ruling in the Official Gazette, the members of the High Commission for Human Rights had lost their immunity.

30. The High Commission for Human Rights did have the power to make unannounced visits to places of detention. In that regard, however, the High Commission for Human Rights

Act was not entirely consistent with an earlier piece of legislation, the Prisoners and Detainees Reform Act, which required visits to be coordinated with the Department of Corrections. A bill was in the pipeline to amend the latter Act and thus enable the High Commission for Human Rights fully to exercise its visiting mandate.

31. The Government understood that it had a responsibility to protect the rights of all persons in the territory of Iraq. In that connection, Act No. 20 of 2009 was intended to address the issue of compensation for harm of all kinds – including death, injury, disappearance, abduction and total or partial disability – that might occur as a consequence, not only of terrorist activities, but also of military operations and military errors. That approach was compatible with international human rights standards.

32. **Mr. Zebari** (Iraq) said that a warrant was required in order to execute an arrest. Law enforcement personnel could be arrested regardless of their rank. The Kurdistan Regional Government, which he represented, had made provision for persons who were detained and later acquitted to obtain compensation, and legal decisions were appealable. The judiciary had been allocated 1.7 billion dinars in 2021 to provide legal aid lawyers to detainees. The presence of a lawyer was required during police questioning; accordingly, in cases where suspects did not have a lawyer, one was assigned to them before questioning could begin. In Kurdistan Region, the death penalty was applied only in rare cases involving terrorism and threats to social stability and regional or national territorial integrity. Moreover, none of the 300 death sentences that had been imposed since 2008 had been enforced, and 6 had been commuted to life imprisonment.

33. Nearly 6,000 members of the security forces had undergone training in the handling of demonstrators. During protests in Zakhu in 2021, protesters had assaulted members of the security forces and damaged public property. Of the protesters who had been arrested, 18 had been carrying firearms. Demonstrations could not be considered peaceful in such circumstances.

34. Freedom of the press was guaranteed under several laws, as was the public's access to information. The Region had adopted a law in 2008 prohibiting the misuse of communications equipment, with the aim of protecting the population and journalistic activities. Defamation and slander were criminal offences. In 2021, at least five complaints involving the torture of journalists had been lodged; some cases had gone to trial. Fines had been imposed in some cases of violence against journalists.

35. Over 150 organizations, in addition to government entities, worked in the area of women's rights. Thousands of women had benefited from awareness-raising seminars and workshops on women's rights organized in cooperation with several United Nations agencies. There had been nearly 14,000 complaints of domestic violence in the Region in 2021, but the number of suicides among women had declined. Nine women had been killed by a spouse or relative that year. More than 100 women, most from the Region but also some foreign women, had sought refuge in shelters for victims of violence. Some 35 complaints of forced marriage had been filed in 2020, leading to the initiation of proceedings against the perpetrators.

36. Defence of honour was not considered a mitigating circumstance in cases of murder and, since 2015, sentences could no longer be commuted on the grounds that a murder had been committed to restore a person's or family's honour. In 2020, the Regional Government, in cooperation with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), had launched a plan to end female genital mutilation, pursuant to which data were collected at health centres in areas with the highest incidence of the phenomenon and women were provided with information. As a result, more complaints were being filed.

37. More than 130 women and 70 minors had been convicted of terrorism-related offences in 2020. A bill was being drafted on the establishment of a specialized court to hear cases involving offences committed by Da'esh.

38. The Regional Government was taking all steps to ensure that Iraqi refugees and internally displaced persons could return in safety. However, the terrorist threat remained in

certain liberated areas. In 2021 alone, there had been over 255 attacks in such areas, resulting in nearly 380 dead, 150 injured and hundreds of missing.

39. Concerning conditions in places of deprivation of liberty, the rights to education and visitation were guaranteed by law. To reduce overcrowding, a new facility with a capacity of 5,000 inmates had been built and another was to be completed in 2026. The Ministry of Labour and Social Affairs, with the assistance of the United Nations, was setting up an electronic prisoner register. Prisoners could submit complaints via boxes managed by the Ministry and, in Kurdistan Region, the Independent Human Rights Commission. In addition to ICRC, monitoring visits could be conducted by UNAMI, international organizations, consular officials and non-governmental organizations. In 2021, UNAMI had carried out at least 14 visits, during which it had interviewed more than 60 prisoners and pretrial detainees. At least 135 prisoners were enrolled in education programmes, mostly at the tertiary level.

40. **Mr. Tuzmukhamedov** (Country Rapporteur) said that he still wished to know whether the Convention took precedence over national laws and which authority ruled on the compatibility of international treaties with the dictates of Islam. He would appreciate more details about the committee of retired judges established by the Supreme Judicial Council to review and amend national legislation with a view to bringing it into line with international treaties, specifically what their qualifications were and whether the members had been active judges prior to 2003. He was also interested in the qualifications of Iraqi judges in general. It would be useful to know how the two competing anti-torture bills currently before the Council of Representatives differed and whether they would be reconciled or whether one would supplant the other.

41. He would welcome the delegation's comments on the contradictory provisions of the High Commission for Human Rights Act and the Prisoners and Detainees Reform Act regarding the possibility of unannounced visits to prisons; the ability of the High Commission to conduct visits to facilities under the jurisdiction of the Counter-Terrorism Service, the Ministry of the Interior and the Ministry of Defence; the extent to which the High Commission's recommendations on COVID-19 mitigation measures in prisons had been implemented; and any immunities still enjoyed by commissioners while in office.

42. Recalling that being held on death row in poor conditions – such as those at the Nasiriyah central prison – only aggravated mental suffering, he asked how many people had been sentenced to death since the adoption of Order No. 3 of 2004 reinstating the death penalty and on what grounds, how many executions had been carried out and how many death sentences had been commuted. Lastly, expressing concern about the 300 people on death row in Kurdistan Region, he invited the delegation to comment on reports from United Nations sources that some executions had gone ahead in the Region.

43. **Mr. Liu** (Country Rapporteur) said that he would welcome the delegation's comments on the effectiveness of habeas corpus applications and torture complaints, given that it was reportedly the investigating judge in a case who reviewed them, and on the apparent reluctance of detainees to file complaints of torture out of fear of reprisals. It would be useful to hear examples of cases in which the provisions allowing for a retrial on the grounds that a confession had been coerced had been invoked. The Committee would appreciate a breakdown of the inmate population in all places of deprivation of liberty, as well as information on any investigation into the allegations of torture committed at the military detention facility at Al-Muthanna Airport. It would also appreciate statistics on deaths in custody and information on the investigation of such deaths.

44. While he welcomed the adoption of the Yazidi Female Survivors Act, he remained concerned about gaps in the law, for instance the exclusion from its scope of male victims of sexual violence and victims from other ethnic minorities, the omission of the issue of children born of rape and the lack of sufficient redress for victims. It would be helpful to know what legal action had been taken in relation to abduction cases and what the outcome had been.

45. He would appreciate the delegation's comments on reports that Da'esh fighters continued to be prosecuted mainly under counter-terrorism legislation. He understood that, as a result, victims were prevented from participating in trials, thus hindering their right to redress; rape and other acts of sexual violence were not prosecuted, since they were not criminalized under the relevant legislation; and the penalties imposed were not

commensurate with the gravity of the crimes committed. He wished to know whether the State party intended to amend the overly broad definition of terrorism contained in Anti-Terrorism Act No. 13 of 2005 to bring it into line with international standards and whether it would ensure that due process guarantees were respected in cases brought under the Act.

46. He wondered whether it was true that the reports of the fact-finding committee established to investigate alleged acts of violence during the October 2019 demonstrations were not publicly available, that the committee had made limited progress in its investigations and that it had secured few convictions.

47. He would like to know whether the State party planned to increase the age of criminal responsibility from 9 years to bring it into line with international standards. Lastly, he would be grateful for the delegation's comments on reports that corporal punishment was still permitted in the home and in schools, day care and alternative care settings, and that such punishment was not expressly prohibited in juvenile detention institutions under the 1983 Juvenile Welfare Act.

48. **Mr. Touzé** said that he would be interested to have information concerning foreign nationals who had received the death penalty, including what nationalities they were, how many had been sentenced and what crimes they had committed. He wished to know whether the State party cooperated with the Governments of their countries of origin to negotiate alternatives to execution and allow them to serve their sentences in their home countries.

49. **Ms. Racu** said that she would be interested to know what budgetary allocation had been made, if any, to implement the Yazidi Female Survivors Act, how many survivors had applied for support under the Act and how many people had received such support. Had a rehabilitation programme been set up and, if so, what services did it include? She also wished to know whether the Act contained provisions to prevent future crimes of abduction, sexual violence and sexual slavery.

The meeting was suspended at 5.15 p.m. and resumed at 5.25 p.m.

50. **Mr. Salar Abdulsattar Mohammed** (Iraq) said that Iraqi law was based primarily on sharia law, but that it had also been influenced by the Egyptian civil and Napoleonic codes, among other sources. Some national law provisions, such as those pertaining to child custody, therefore diverged from sharia law. The Personal Status Act had been amended so that men no longer had the right to marry more than one woman, in order to bring the Act into line with the Convention on the Elimination of All Forms of Discrimination against Women.

51. In order to become a judge, candidates required a diploma from a university in Iraq or abroad. The procedure for the appointment of judges and prosecutors was established by law. Candidates were required to undergo a two-year training course, after which they took written and oral examinations. Legal provisions were in place to ensure the independence and impartiality of judges and to prevent nepotism and cronyism. As was common practice in many other countries in the region, judges in Iraq often continued to exercise certain functions after retirement.

52. Judicial impartiality and independence were also ensured through oversight by the Office of the Public Prosecutor. Victims of torture or other crimes were entitled under the Code of Criminal Procedure to appeal against any court decision in the event that bias was suspected. Furthermore, any party, including the prosecutor, could appeal a court decision to an oversight committee composed of senior judges. If the committee found the judge hearing a case to have shown bias, it would have him or her removed and refer the case to a different court. Retrials were also possible under the civil and criminal codes where new evidence had come to light since the initial trial. Such a remedy was open to death row inmates under the Amnesty Act. On many occasions, retrials had led to the commutation of death sentences or had resulted in the dismissal of cases altogether.

53. Capital punishment was used only for the most serious crimes, such as terrorism. A death sentence could be handed down only after an extensive judicial investigation and a fair and public trial in which all legal safeguards were upheld. Courts martial were prohibited from imposing such sentences. Persons who faced capital punishment were always able to appeal to the Federal Supreme Court and the Court of Cassation, which would verify the evidence and assess the fairness and lawfulness of the judgment handed down. Cassational

appeals were heard by a bench comprised of a large number of judges, who took decisions unanimously or by a significant majority. Convicts often spent years on death row, during which time they had access to lawyers and could lodge an appeal, seek a retrial or apply for commutation of their sentence or a pardon. Executions of foreign nationals had been suspended and no death sentences had been carried out in recent years.

54. His delegation was grateful to the Committee for a constructive and wide-ranging dialogue and looked forward to studying its concluding observations and recommendations.

The meeting rose at 6 p.m.