



## **Patterns of Torture in Iraq**

**A Report by the Gulf Centre for Human Rights (GCHR)**

**September 2022**

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## **EXECUTIVE SUMMARY**

In the first half of 2022, Iraq came under the scrutiny of the UN Committee Against Torture<sup>1</sup> and the UN Human Rights Committee<sup>2</sup> which, under their respective monitoring and reporting mechanisms, assessed Iraq's record in upholding civil and political rights and preventing torture, inhuman or degrading treatment at the hands of both the authorities and non-state actors. The concluding observations of both periodic reports demonstrate that torture remains a widespread and systematic practice in Iraq that takes place against a backdrop of socio-political turmoil characterised by the oppression of human rights defenders, members of wider civil society and minority groups by state and non-state actors.

Based on the findings of the aforementioned UN Treaty Bodies and the extensive reporting of individual cases by the Gulf Centre for Human Rights (GCHR) and other human rights organisations, this report examines the key patterns of torture in Iraq since the beginning of the widespread peaceful demonstrations that erupted across the country in October 2019.

The key patterns that emerge are: the systematic perpetration of torture in places of detention; the fostering of a culture of impunity through a reliance on forced confessions and a lack of effective investigations into allegations of torture; and the targeting of women and the LGBTIQ+ community.

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<sup>1</sup> "Concluding observations on the second period report of Iraq", the UN Committee Against Torture, CAT/C/IRQ/CO/2, 15 June 2022, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRQ%2fCO%2f2&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRQ%2fCO%2f2&Lang=en) (accessed 23 July 2022).

<sup>2</sup> "Concluding observations on the sixth periodic report of Iraq," the UN Human Rights Committee, CCPR/C/IRQ/CO/6, 30 March 2022, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRQ%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRQ%2fCO%2f6&Lang=en) (accessed 23 July 2022).

## **METHODOLOGY**

To identify the patterns of torture in Iraq, this report considers the shortcomings of the Iraqi legal system in preventing, investigating and remedying the perpetration of torture. This analysis is underpinned by recent reports of the Office of the UN High Commissioner for Human Rights, the UN Committee Against Torture and the UN Human Rights Committee which were unanimous in concluding that Iraq's current legal framework on torture does not comply with international human rights law. Furthermore, these reports found that the safeguards that do exist are routinely ignored.

This analysis of Iraq's legal framework on torture is complemented by an examination of the main patterns of torture that emerge from the witness testimonies and individual case studies documented by GCHR, the UN and the human rights organisations cited throughout this report. These testimonies, and GCHR's ongoing series of periodic reports on the human rights situation in Iraq have been afforded all due ethical considerations and anonymity.

## **INTRODUCTION**

For decades, Iraq has suffered from chronic political and socio-economic instability exacerbated by protracted armed conflict since the 2003 invasion of Iraq by the United States-led coalition. Tired of being constantly confronted with crisis after crisis, since 2011, Iraqi citizens have participated in waves of peaceful demonstrations demanding greater public freedoms, an improvement in living standards, better public services and an end to mass unemployment and corruption.

The latest incarnation of these “Popular Movements” started in October 2019 when thousands of citizens took to the streets and squares of Baghdad, Basra, Maysan, Al-Muthanna, Al-Najaf, Karbala, Babylon, Diyala, Dhi Qar and Qadisiyah.<sup>3</sup> However, over the past few years, the peaceful activists and human rights defenders participating in these gatherings have been met with lethal force, with frequent reports of demonstrators being arbitrarily arrested, legally harassed and tortured by the security forces. For example, at the very start of the October Popular Movement, GCHR was already receiving reports that activists in Al-Tahrir Square were subjected to detention, torture, beatings, and the confiscation of personal property by riot police stationed on the Mohammad Al-Qasim Highway near Al-Khilani Square.<sup>4</sup>

In the intervening years, hundreds of witness testimonies, case studies and frequent reporting by independent Iraqi organisations, human rights organisations and international bodies have confirmed that torture is amongst the authorities’ methods of choice for oppressing peaceful activists and human rights defenders and cracking down on civic space in Iraq.

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<sup>3</sup> “The government must protect the freedom to demonstrate throughout the country”, The Gulf Centre for Human Rights, 03 October 2019; <https://www.gc4hr.org/news/view/2219> (accessed 24 July 2022).

<sup>4</sup> “First periodic report on violations during ongoing popular demonstrations”, The Gulf Centre for Human Rights, 30 January 2020, <https://www.gc4hr.org/news/view/2317> (accessed 24 July 2022).

At the outset, it is important to recognise that, as stated by a report published by GCHR in May 2022 following a fact-finding mission to the country, torture is not a new occurrence in Iraq.<sup>5</sup> However, the nature and intensity of the authorities' use of torture has changed faced with the resilience of the October Popular Movement and the amplification of demands for democratic participation during the 2021 parliamentary elections. In the almost three years since the beginning of the October Popular Movement, peaceful human rights defenders, activists, women and members of the LGBTIQ+ community have been at severe risk of torture by security forces, riot police and various armed groups and militias who appear more determined than ever to stifle civic space and all dissenting voices.

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<sup>5</sup> "They Will Not Shoot Down Our Dream: Challenges Faced by Human Rights Defenders in Iraq Following the October Popular Movement", The Gulf Centre for Human Rights, 05 May 2022, p.4, <https://www.gc4hr.org/news/view/3006> (accessed 27 July 2022).

## **IRAQ'S NATIONAL AND INTERNATIONAL LEGAL COMMITMENTS**

Article 37 of the Iraqi Constitution<sup>6</sup> prohibits all forms of “psychological and physical torture and inhumane treatment” and guarantees the right to seek compensation for material and moral damages. Building on this, Article 333 of the Iraqi Penal Code<sup>7</sup> criminalises acts of torture:

“[a]ny public official or agent who tortures or orders the torture of an accused, witness or informant in order to compel him to confess to the commission of an offence or to make a statement or provide information about such offence or to withhold information or to give a particular opinion in respect of it is punishable by imprisonment or by penal servitude. Torture shall include the use of force or menaces.”

Furthermore, Article 332 of the Penal Code further criminalises “cruel treatment” by a public official or agent if it causes a person “to suffer a loss of esteem or dignity or physical pain.”

However, although the above provisions demonstrate that the Iraqi legal framework explicitly criminalises torture and provides for legal safeguards to prevent its occurrence, a report published by the Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI) in May 2021 identified numerous legal loopholes and a distinct lack of implementation.<sup>8</sup> Chief among these is the fact that the aforementioned legal provisions include definitions of torture that fall short of the comprehensive definition included in international instruments such as the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).<sup>9</sup>

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<sup>6</sup> Iraq's Constitution of 2005, available at [https://www.constituteproject.org/constitution/Iraq\\_2005.pdf?lang=en](https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en) (accessed 25 July 2022).

<sup>7</sup> Iraq: Penal Code [Iraq], No. 111 of 1969, July 1969, <https://www.refworld.org/docid/452524304.html> (accessed 25 July 2022).

<sup>8</sup> “Human Rights in the Administration of Justice in Iraq: legal conditions and procedural safeguards to prevent torture and ill-treatment”, the United Nations Assistance Mission for Iraq, Office of the United Nations High Commissioner for Human Rights, August 2021.

<sup>9</sup> *Ibid*, p.10.

Iraq is a party to the CAT (but has not acceded to the Optional Protocol to that instrument).

The CAT defines “torture” as:

“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”<sup>10</sup>

The comparatively lacking definition contained in the Iraqi legal framework was the subject of recent recommendations by the UN Committee Against Torture, which, in June 2022, reiterated its concerns that Iraq’s current definition of torture and the definition contained in two bills pending legislative examination, fall short of the requirements under the Convention.<sup>11</sup>

With regard to legal safeguards to prevent torture occurring against persons in custody, whilst the Committee took “note of the procedural safeguards to prevent torture and ill-treatment that are enshrined in Iraqi law, the Committee remains concerned about reports indicating that persons in custody are not routinely afforded all fundamental legal safeguards from the very outset of deprivation of liberty, in practice.”

The sharp gap between the existence on paper of legal safeguards and their implementation in practice, as identified by the UN Committee Against Torture, UNAMI and others, will be further expanded upon throughout this report on the main patterns of torture in Iraq.

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<sup>10</sup> United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Part I, Article 1, UN General Assembly resolution 39/46 of 10 December 1984.

<sup>11</sup> “Concluding observations on the second period report of Iraq”, the UN Committee Against Torture, CAT/C/IRQ/CO/2, 15 June 2022, para 8.



## **SECTION 1: THE PERPETRATION OF SYSTEMATIC TORTURE WITH IMPUNITY IN PLACES OF DETENTION**

In its concluding observations on Iraq's compliance with the International Covenant on Civil and Political Rights in March 2022, the UN Human Rights Committee expressed its scepticism about the government's claims that secret detention facilities do not exist in Iraq, citing numerous reports to the contrary.<sup>12</sup> Indeed, the hundreds of witness testimonies and case studies recorded by GCHR and other human rights organisations over many years confirm that the UN Human Rights Committee's scepticism is more than justified. This section will examine how arbitrary arrests, enforced disappearance, prolonged pretrial detention and lack of access to medical services and legal representation all coalesce to ensure that torture is rife in places of detention in Iraq.

In March 2022, GCHR published a report entitled, "Torture in Iraqi Prisons ... Pain Behind Bars".<sup>13</sup> The report documents over a dozen cases of torture in Iraqi prisons which it describes as "some of the most horrific prisons in the world, where continuous torture practices take place in the absence of any effective government measures to prevent or at least limit them."<sup>14</sup>

The vast majority of instances of torture in Iraq start with an arbitrary arrest. For example, on 27 July 2021, GCHR documented the death of Hisham Mohammed Al-Khazali, an innocent citizen who died after being tortured in prison during the 24 hours following his arrest in a case of mistaken identity. He was arrested after passing a security checkpoint at the northern entrance to Basra Governorate, after security forces confused him with a wanted person who bears a similar name. He was tortured in the Directorate of Combating Crime in Basra Governorate, and reliable information confirmed that he was subjected to beating, hanging and suffocation, with signs of torture clearly visible on his body.<sup>15</sup>

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<sup>12</sup> "Concluding observations on the sixth periodic report of Iraq," the UN Human Rights Committee, CCPR/C/IRQ/CO/6, 30 March 2022, para 22.

<sup>13</sup> "Torture in Iraqi Prisons ... Pain Behind Bars", The Gulf Centre for Human Rights, 20 March 2022, <https://www.gc4hr.org/news/view/2974> (accessed 25 July 2022).

<sup>14</sup> *Ibid.*

<sup>15</sup> "GCHR's 17th Periodic Report on Human Rights Violations in Iraq", The Gulf Centre for Human Rights, 16 August 2021, [GCHR's 17th Periodic Report on Human Rights Violations in Iraq \(gc4hr.org\)](https://www.gc4hr.org/news/view/2974) (accessed 25 July 2022).

GCHR has documented many similar instances of arbitrary arrests leading to torture. One such example is the arrest on 13 May 2021 by the security forces in Babylon Governorate of civil society activist Durgham Khreibet during a targeted campaign against protesters in the Governorate. Hours after his release, he took to Twitter to denounce his treatment at the hands of the security forces, saying: "I did not lower my head and my eyes did not cry, despite the torture and the offensive words that I was subjected to ..." <sup>16</sup> Similarly, on 10 January 2021, GCHR reported the arbitrary arrest by Iraqi security forces of civil society activist Ahmed Maher, a prominent figure of the Baghdad protests, while he was returning home from Tayaran Square in Baghdad. He was released four days after his arrest with signs of torture on his body. <sup>17</sup>

Many similar cases are reported in the Kurdistan Region of Iraq. In February 2021, the World Organisation Against Torture (OMCT) raised the alarm about the sentencing of freelance journalists Sherwan Sherwani, Ayaz Karam Bruji and Kohdar Mohammed Amin Zebari to six years in prison in retaliation against their social media coverage of the wave of protests that have been held in the Kurdistan Region of Iraq since August 2020. The journalists, who were accused of sabotage, espionage and damaging the security and stability of the Kurdistan region, were brought to the General Directorate of the Kurdish Internal Security Forces (Asayish) prison in Erbil, where according to their lawyers, they were allegedly subjected to acts of ill-treatment and intimidation and denied access to their lawyers during interrogations. <sup>18</sup>

These accounts do not even scratch the surface of the hundreds of similar cases reported to GCHR. However, they do provide a snapshot of an ongoing pattern of arbitrary arrests and systematic torture against peaceful activists and human rights defenders that led the UN Human Rights Committee to express its concerns at "... reports of arbitrary arrests carried out routinely on the basis of undisclosed information and without a warrant ..." <sup>19</sup>

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<sup>16</sup> "GCHR's 15th Periodic Report on Human Rights Violations in Iraq", The Gulf Centre for Human Rights, 15 June 2021, [GCHR's 15th periodic report on human rights violations during popular protests \(gc4hr.org\)](https://www.gc4hr.org/news/view/2594) (accessed 25 July 2022).

<sup>17</sup> "GCHR's 11th Periodic Report on Human Rights Violations in Iraq", The Gulf Centre for Human Rights, 03 February 2021, <https://www.gc4hr.org/news/view/2594> (accessed 25 July 2022).

<sup>18</sup> "Iraq: Sentencing of journalists Sherwan Sherwani, Ayaz Karam Bruji and Kohdar Mohammed Amin Zebari" The World Organisation Against Torture, 26 February 2021, <https://www.omct.org/en/resources/urgent-interventions/iraq-sentencing-of-journalists-sherwan-sherwani-ayaz-karam-bruji-and-kohdar-mohammed-amin-zebari> (accessed 27 July 2022).

<sup>19</sup> "Concluding observations on the sixth periodic report of Iraq," the UN Human Rights Committee, CCPR/C/IRQ/CO/6, 30 March 2022, para 22.

Another concerning pattern is the enforced disappearance of human rights defenders and activists in undisclosed and unofficial places of detention. Prolonged detention away from the scrutiny of a detainee's lawyer and family creates a void of accountability that facilitates the perpetration of torture with impunity. Such practices are widespread in Iraq and are in direct violation of international human rights standards such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)<sup>20</sup>, which include access to counsel, the right to contact family and the provision of medical attention when needed.

Article 19 of the Iraqi Constitution specifies that only detention in places designated for these purposes, pursuant to prison laws covering health and social care, and subject to the authorities of the state, is allowed.<sup>21</sup> Furthermore, unlawful detention is criminalised under Article 421 of the Penal Code.<sup>22</sup> As for Iraqi Kurdistan, according to the recent UNAMI report, UNAMI/OHCHR were unable to identify laws regulating places of detention under the authority of the Ministry of Interior and Asayish who run places of detention in addition to the prisons under the authority of the Ministry of Labour and Social Affairs.<sup>23</sup>

However, despite the constitutional and legislative provisions governing Federal Iraq, there are frequent reports that detainees are held in a variety of locations outside those that fall within the mandate of the governing authorities. Of those interviewed by UNAMI, 28 people reported not having been aware of the detaining authority and 25 of those were originally held in unofficial places of detention before being transferred to official locations.<sup>24</sup>

Furthermore, the most recent CAT review of Iraq concluded that, despite the provisions in Iraqi law that require a person to be brought before an investigative judge within 24 hours, arrested persons frequently wait days or even weeks after their arrest and often do not receive access to a lawyer until after preliminary investigation interviews. In addition, persons in pre-trial detention are routinely deprived of access to independent medical examinations that would uncover signs of torture and ill-treatment.<sup>25</sup>

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<sup>20</sup> The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf) (accessed 27 July 2022).

<sup>21</sup> Article 19 of Iraq's Constitution of 2005.

<sup>22</sup> Article 421 of the Penal Code [Iraq], No. 111 of 1969.

<sup>23</sup> "Human Rights in the Administration of Justice in Iraq: legal conditions and procedural safeguards to prevent torture and ill-treatment", the United Nations Assistance Mission for Iraq, Office of the United Nations High Commissioner for Human Rights, P.19

<sup>24</sup> *Ibid.*

<sup>25</sup> "Concluding observations on the second period report of Iraq", the UN Committee Against Torture, CAT/C/IRQ/CO/2, 15 June 2022, para 10.

Although the state is responsible for a significant number of these unlawful detentions, the situation is rendered more complex by the fact that a large number of abductions and torture against peaceful demonstrators in Iraq are committed by armed actors operating outside state control.<sup>26</sup> When this is the case, survivors often recount not knowing exactly who detained and tortured them and where the violations occurred.

A classic example of this particular pattern of torture is the kidnapping and torture of civil society activist Ali Naseer Allawy, documented by GCHR.<sup>27</sup> On 12 February 2021, four masked gunmen traveling in a pick-up truck with no registration number kidnapped Allawy from the Amir neighborhood in the city of Najaf. They threw him on the floor of the vehicle and covered his eyes. The gunmen took him to an office in an undisclosed location and subjected Allawy to various forms of torture, kicking him, beating him with their hands and rifle butts, administering electric shocks to his chest and feet, while bombarding him with questions about protesters participating in the Popular Movement in Najaf Governorate. The assailants also used an acid chemical to remove a 25 October tattoo from Allawy's shoulder, causing him to faint. When he regained consciousness, he managed to escape from his captors at approximately 5am.

Regardless of whether state actors or unidentified armed groups and militias are behind a kidnapping, enforced disappearance and/or illegal detention, the Iraqi Government is under a positive obligation to prevent and investigate all allegations of torture, ill-treatment and other violations committed by state and non-state actors and prosecute those responsible.

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<sup>26</sup> *Ibid.*

<sup>27</sup> "GCHR's 12th Periodic Report on Human Rights Violations in Iraq", The Gulf Centre for Human Rights, 10 March 2021, [GCHR's 12th periodic report on human rights violations during popular protests \(gc4hr.org\)](https://www.gc4hr.org/en/12th-periodic-report-on-human-rights-violations-in-iraq) (accessed 25 July 2022).

## **SECTION 2: THE USE OF TORTURE TO EXTRACT FORCED CONFESSIONS WITH IMPUNITY**

The second pattern of torture that emerged from the witness testimonies that form the backbone of this report is the persistent use of torture during interrogations to extract forced confessions.

In 2018, Human Rights Watch released a comprehensive report<sup>28</sup> detailing the widespread practice of investigative abuse during interrogations in Mosul. The report was based on the chilling accounts of two former detainees and the father of a man who died in detention who recounted their experiences of torture, ill-treatment and death in facilities under the control of the Iraqi Interior Ministry in the Mosul area.

One survivor recalled witnessing and experiencing repeated torture during interrogations and another man reported his son being tortured to death during interrogations that took place in the Mosul police station. Such is the climate of fear and impunity in Iraq that none of the men interviewed by Human Rights Watch dared to tell judges that they were abused or had witnessed abuse for fear of reprisals. Furthermore, several reported having visible torture marks on their bodies whilst appearing before judges who made no remarks whatsoever nor further inquiries.

Of further concern is the fact that forced confessions extracted by torture are invariably relied on in trials to convict innocent citizens, activists and human rights defenders of serious crimes they did not commit. As stated in the CAT report and corroborated by numerous witness testimonies, coerced confessions are especially relied upon in court in terrorism-related cases, including in the case of children. All of the available evidence suggests that when allegations of forced confessions under torture or ill-treatment are made before a trial or appeal judge, more often than not, they are ignored.<sup>29</sup> These practices constitute serious violations of international fair trial standards and also run contrary to the Iraqi Constitution which states that “any confession made under force, threat, or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law.”<sup>30</sup>

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<sup>28</sup> “Iraq: Chilling Account of Torture, Deaths and Investigative Abuse During Interrogations in Mosul”, Human Rights Watch, 19 August 2018, <https://www.hrw.org/news/2018/08/19/iraq-chilling-accounts-torture-deaths> (accessed 25 July 2022).

<sup>29</sup> “Concluding observations on the second period report of Iraq”, the UN Committee Against Torture, CAT/C/IRQ/CO/2, 15 June 2022, para 14.

<sup>30</sup> Article 37 of Iraq’s Constitution of 2005.

The concentration of confessions extracted through torture in terrorism-related cases warrants the ongoing attention of international bodies and human rights organisations, particularly in light of the amendments to the counter-terrorism law that has been referred for review to the Council of Ministers. GCHR echoes the concerns of the CAT that the overly broad definition of terrorism in the Counter-Terrorism Act lends itself to abuse by facilitating the targeting of dissenting voices.<sup>31</sup>

In its 22<sup>nd</sup> Periodic Report on Human Rights Violations in Iraq<sup>32</sup> published on 13 May 2022, GCHR reported the extremely concerning case of four protesters sentenced to death in a trial that relied on forced confessions extracted by torture.

On 11 March 2022, the Media Center of the Supreme Judicial Council issued a statement explaining the circumstances of the death sentence issued against the four protesters. According to the statement, on 30 June 2021, the protesters “agreed and participated in the Aziziyah district to attack the Aziziyah power distribution station and threw a grenade at protection personnel. The incident led to the death of the commander of the detachment, Captain Ali Abdulhussain Shayesh, as a result of being wounded in the head and chest area by shrapnel from that bomb, and the injury of his comrades from the police force, Nassar Sabih Tayeh and Ghazwan Abdulkarim Hassan. The defendants openly admitted the act committed by them before the investigator and the investigative judge, after they were provided with all legal guarantees.”

The statement also declared that, “The case will be automatically sent to the Court of Cassation to be reviewed in accordance with the law and a final decision will be issued in light of that.” Under Iraqi law, all judgments handed down by Iraqi courts are preliminary and subject to appeal before the Federal Court of Cassation within 30 days of the initial judgment.

The four protesters are Kadhim Hadi Kadhim, Mohammed Atiya Hussain, Abbas Ali Aziz, and Hussain Saddam Hashem. Lawyers and colleagues close to the protesters informed GCHR that the activists were tortured and forced to confess to the officer’s killing.

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<sup>31</sup> “Concluding observations on the second period report of Iraq”, the UN Committee Against Torture, CAT/C/IRQ/CO/2, 15 June 2022, para 16.

<sup>32</sup> “GCHR’s 22nd Periodic Report on Human Rights Violations in Iraq”, The Gulf Centre for Human Rights, 13 May 2022, <https://www.gc4hr.org/news/view/3014> (accessed 27 July 2022).

Since the emergence of the Popular Movement in October 2019, the authorities have specifically targeted peaceful protesters by arbitrarily arresting them during their legitimate human rights activities and forcing them to admit to terrorism and other serious crimes under duress. For example, in a statement from May 2021, the World Organisation Against Torture (OMCT) stated that peaceful protester Bashir Abbas was tortured by Basra police officers while in custody to extract a confession and was later sentenced to 10 years and two months of prison on 31 March 2021.<sup>33</sup>

The case of Ali Al-Jubouri constitutes another shocking example of the extent of confessions extracted by torture in the Iraqi “justice” system.<sup>34</sup> On 12 April 2021, Al-Jubouri’s wife disappeared. He was arrested two months after her disappearance and wrongly accused of her murder after a television appearance in which he confessed to this alleged crime.

On 18 September 2021, his wife returned, and he was released three days later. Upon his release, Al-Jubouri informed his relatives that he only confessed to killing his wife under the pain of torture inflicted on him by his interrogators who forced him to falsely confess to his wife’s non-existent murder.

After news of his case spread, the Iraqi authorities intervened. Accompanied by members of the security forces accused of torturing him, Prime Minister Mustafa Al-Kadhimi received Al-Jubouri on 24 September 2021. The alleged perpetrators were arrested and referred to the courts for trial. The Prime Minister also directed that a new committee be formed in the Ministry of Interior to follow up the implementation of human rights standards and the work of investigators.

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<sup>33</sup> “Iraq: Systematic targeting of human rights defenders”, The World Organisation Against Torture, 26 May 2021, <https://www.omct.org/en/resources/statements/iraq-systematic-targeting-of-human-rights-defenders> (accessed 27 July 2022).

<sup>34</sup> “GCHR’s 19th Periodic Report on Human Rights Violations in Iraq”, The Gulf Centre for Human Rights, 21 October 2021, <https://www.gc4hr.org/news/view/2855> (accessed 27 July 2022).

Unfortunately, this seemingly progressive move by the Prime Minister warrants close scrutiny and scepticism in light of the fact that victims of torture in Iraq do not have recourse to fair and impartial accountability mechanisms to bring their perpetrators to justice. The anti-torture bill currently under consideration by the Council of State does not provide for an individual complaints mechanism. Furthermore, although the Iraq High Commission for Human Rights (IHCHR) has jurisdiction to visit and monitor prisons and places of detention, the obligation for the IHCHR to agree the timing of such visits with the competent authorities in advance means that the authorities are able to carefully choreograph the detention conditions witnessed by IHCHR during their visits.<sup>35</sup>

In addition, according to the recent report of the Human Rights Committee, the IHCHR itself is not beyond reproach as the procedure for appointing its members does not guarantee its independence from political influence and clientelism.<sup>36</sup> The judicial harassment of Dr Ali Akram Al-Bayati<sup>37</sup>, a human rights defender, physician and former member of the IHCHR, further illustrates the authorities' firm intention for the body to be a smokescreen that exists in name alone.

Dr Al-Bayati's sincere advocacy for the promotion of human rights in Iraq, particularly during the protests that started in October 2019, his efforts to bring perpetrators of torture to justice and his vocal criticism of IHCHR's difficulties in gaining access to detention centres, led to his summons in February 2022 by the Al-Resafa Investigative Court in Baghdad. Al-Bayati was informed that he was under investigation in relation to a defamation case filed by Iraq's Council of Ministers Secretariat (COMSEC) under Article 434 of the Iraqi Penal Code, which carries a prison sentence of up to one year. According to OMCT, this provision of the Penal Code is often used to silence dissidents and human rights defenders in Iraq.

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<sup>35</sup> "Concluding observations on the second period report of Iraq", the UN Committee Against Torture, CAT/C/IRQ/CO/2, 15 June 2022, para 20.

<sup>36</sup> "Concluding observations on the sixth periodic report of Iraq", the UN Human Rights Committee, CCPR/C/IRQ/CO/6, 30 March 2022, para 6.

<sup>37</sup> "Iraq: Judicial harassment of human rights defender Dr. Ali Akram al-Bayati", The World Organisation Against Torture, 01 March 2022, <https://www.omct.org/en/resources/urgent-interventions/iraq-judicial-harassment-of-human-rights-defender-dr-ali-akram-al-bayati> (accessed 27 July 2022).



## **SECTION 3: THE VICIOUS, GENDER-BASED TARGETING OF WOMEN AND THE LGBTIQ+ COMMUNITY**

In March 2022, a harrowing report by Human Rights Watch shone a spotlight on the killings, abductions, torture and sexual violence to which members of the LGBTIQ+ community are subjected by state actors and armed groups in Iraq.<sup>38</sup> The report demonstrates how a hairstyle, fashion sense or painted nails that merely hints at challenging established gender norms can be tantamount to a death sentence in Iraq, where patriarchal social norms and a culture of impunity intersect in a culture of violence and oppression against LGBTIQ+ Iraqis.<sup>39</sup>

Amongst those who recounted their experience of torture to Human Rights Watch is Khadija, a 31-year-old transgender woman from Baghdad. In February 2021, Khadija was attacked by a group of men with razor blades and screwdrivers near her aunt's house in Baghdad, where she was residing. The men, whom Khadija said identified themselves as belonging to Asa'ib Ahl Al-haq - a Popular Mobilisation Forces (PMF) armed group nominally under the prime minister's control since 2016, had previously threatened her, poured gasoline on her body and set it on fire, burning her body parts from the chest down.<sup>40</sup>

In another chilling account, Anwar, a 21-year-old gay man from Baghdad, said that in 2018 he was abducted by Harakat Hezbollah Al-Nujaba, an armed group under the PMF. He said:

“I spent ten days in their secret prison, and they subjected me to physical torture. They were mostly in civilian attire, but some were wearing military attire akin to that of the Fasa'il [armed groups]. I was in captivity at a farm in Baghdad. I spent four days at that secret prison, I was electrocuted and sexually tortured. They brought empty alcohol bottles and forced me to sit down on them, to have these bottles anally penetrate me. I suffered constant verbal abuse, like, ‘You chick [farakh]! You Pup [jerou]!’”<sup>41</sup>

Suspected armed groups are also responsible for a large amount of the torture and ill-treatment inflicted upon the LGBTIQ+ community. One of the most harrowing accounts demonstrating this tendency is that of Laith, who witnessed his boyfriend being beaten and shot to death by a group of four men several months after they started receiving homophobic death threats online.<sup>42</sup>

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<sup>38</sup> “Everyone Wants Me Dead”: Killings, Abductions, Torture, and Sexual Violence Against LGBT People by Armed Groups in Iraq, Human Rights Watch, 23 March 2022, <https://www.hrw.org/report/2022/03/23/everyone-wants-me-dead/killings-abductions-torture-and-sexual-violence-against> (accessed 27 July 2022).

<sup>39</sup> *Ibid*, p.11.

<sup>40</sup> *Ibid*, p.27.

<sup>41</sup> *Ibid*, p.35.

<sup>42</sup> *Ibid*, p.37.

A similar pattern emerges in Iraqi Kurdistan where victims recounted brutal treatment at the hands of state actors and armed groups. For example, a 25-year-old gay man from Sulaymaniyah in the Kurdistan Region of Iraq (KRI) told Human Rights Watch he was sexually assaulted by two members of the Asayish (the Kurdish security organisation and the primary intelligence agency operating in the Kurdistan region in Iraq) on 4 November 2021 while he was on a date. According to him, “two Asayish officers ... began beating me with a baton, on my legs, my chest, my back, my face, all over my body. They cursed me and called me a ‘faggot.’ One of them said, ‘You look like a man, not a gay, why do you do this?’”<sup>43</sup>

In addition, the treatment of LGBTIQ+ persons in places of detention more often than not amounts to torture and ill-treatment, with transgender women in male prisons being particularly vulnerable. This was made abundantly clear in Human Rights Watch’s submission to the CAT in April 2022 which reported that police officers have subjected and threatened LGBTIQ+ adults and children to forced anal exams in police custody, and detention authorities frequently inflict sexual assaults and beatings on LGBTIQ+ persons and withhold food and water.<sup>44</sup> The brutal torture and ill-treatment inflicted upon Iraq’s LGBTIQ+ community adds another layer to a pattern of torture identified earlier in this report i.e. the widespread perpetration of torture in secret detention facilities by a range of state actors and unidentifiable armed groups and militia.

The difficulties facing LGBTIQ+ people in identifying their perpetrators and bringing them to justice is compounded by the reluctance of many LGBTIQ+ people to file complaints due to ongoing societal and family stigma. Homosexuality is not against the law in Iraq, however, members of the LGBTIQ+ community are subjected to intense discrimination. Furthermore, a lack of anti-discrimination laws and the presence of vaguely defined "morality" clauses in Iraq's Penal Code means that abuse and violence committed against members of the LGBTIQ+ community is often overlooked.

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<sup>43</sup> *Ibid*, p.44.

<sup>44</sup> “Submission to the Committee Against Torture and Other Cruel, Inhuman, or Degrading Punishment Ahead of the Review of the Republic of Iraq”, Human Rights Watch, 07 April 2022, <https://www.hrw.org/news/2022/04/07/submission-committee-against-torture-and-other-cruel-inhuman-or-degrading> (accessed 04 August 2022).

The depth of anti-LGBTIQ+ sentiment in Iraq was brought to the fore in May 2020 when the embassies of Canada and the United Kingdom and the offices of the World Bank and the European Union raised rainbow LGBTIQ+ flags in Baghdad to mark the International Day Against Homophobia and Transphobia on 17 May.<sup>45</sup> What was intended as a gesture of solidarity provoked a fierce backlash, leading to widespread fear within the Iraqi LGBTIQ community. For example, Twitter users shared photographs of rainbow flags being burned and calls to kill gay men with concrete blocks. The gesture even prompted Iraq's Foreign Ministry to issue a statement denouncing the flags as against "the noble moral principles of all divine religions."

In Iraq, women are also subjected to gender-based violence amounting to torture and ill-treatment. For example, in 2019, a source within the penitentiary system shared photos with Human Rights Watch of overcrowded prison cells in Nineveh holding women and children on charges of ISIS affiliation in conditions so degrading that they amounted to ill-treatment.<sup>46</sup> The conditions reported to Human Rights Watch run entirely contrary to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders which stipulate that adequate provisions be made for women and children in custodial settings in light of their specific needs and vulnerabilities.<sup>47</sup>

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<sup>45</sup> "Iraqi politicians call for expulsions after embassies fly LGBT flag", Middle East Eye, 18 May 2020, <https://www.middleeasteye.net/news/embassies-flying-lgbt-flags-leads-calls-expulsions-iraqi-politicians> (accessed 04 August 2022).

<sup>46</sup> "Submission to the Committee Against Torture and Other Cruel, Inhuman, or Degrading Punishment Ahead of the Review of the Republic of Iraq", Human Rights Watch, 07 April 2022, <https://www.hrw.org/news/2022/04/07/submission-committee-against-torture-and-other-cruel-inhuman-or-degrading> (accessed 04 August 2022).

<sup>47</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), United Nations Office on Drugs and Crime, A/RES/65/229, 16 March 2011, [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf) (accessed 04 July 2022).

The plight of Yazidi and other women from minority communities who suffered torture and ill-treatment at the hands of ISIS is worth specific mention. In March 2021, the Iraqi Parliament passed the Law on Yazidi Female Survivors, which recognised crimes committed by ISIS including kidnapping, sexual enslavement, forced marriage, pregnancy, and abortion against women and girls from the Yazidi, Turkman, Christian, and Shabak minorities as genocide and crimes against humanity.<sup>48</sup> Although the law provides for compensation and rehabilitation and the prevention of such crimes in the future, the authorities have been found wanting in the concrete application of the law.<sup>49</sup>

Similarly to the difficulties facing members of the LGBTIQ+ in securing access to justice and accountability, there is a serious failure on the part of the authorities to monitor, investigate and prosecute gender-based violence and torture against women and girls by state officials as well as by non-state actors such as armed groups and families.

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<sup>48</sup> “Iraq: UN expert welcomes law to aid ISIL atrocity survivors, but more needs to be done for children born from rape”, United Nations Office of the High Commissioner for Human Rights, 21 April 2021, <https://www.ohchr.org/en/press-releases/2021/04/iraq-un-expert-welcomes-law-aid-isil-atrocity-survivors-more-needs-be-done?LangID=E&NewsID=27018> (accessed 04 August 2022).

<sup>49</sup> “Submission to the Committee Against Torture and Other Cruel, Inhuman, or Degrading Punishment Ahead of the Review of the Republic of Iraq”, Human Rights Watch, 07 April 2022.

## **CONCLUSION**

This report's examination of the main patterns of torture in Iraq focuses on the period since the start of the Popular Movement in October 2019. Whilst this movement is a hopeful sign of the resilience and vibrancy of Iraqi civil society, it has also demonstrated the depths of the authorities' determination to stamp out all dissenting or alternative voices by whatever means possible, including torture.

A key pattern that has emerged from the reports, case studies and witness testimonies relied on throughout this report is the widespread perpetration of torture in places of detention. Many cases of torture documented feature the arbitrary arrest of a peaceful activist or human rights defender, followed by their prolonged illegal detention without access to lawyers or medical care.

These abusive conditions serve to isolate the detained person, leaving them particularly vulnerable to torture and ill-treatment during interrogations to extract forced confessions that will later be used to incriminate defendants in trials entirely devoid of due process. A second key finding of this report has been the frequent admissibility of forced confessions during legal proceedings, with terrible consequences for the often wrongly accused. The use of forced confessions extracted by torture is indicative of a strong culture of impunity in Iraq where justice and accountability are denied to those who dare to speak out and so-called justice and accountability mechanisms lack the independence and political will required to carry out their work.

Finally, the report has highlighted the particularly vicious treatment of women and Iraq's LGBTIQ+ community who suffer horrific torture and ill-treatment at the hands of state actors, armed groups and militias. The ability of these particularly vulnerable communities to seek justice is further complexified by the lingering stigma and discrimination that exists in Iraq against those who do not conform to traditional gender norms and stereotypes.

## **RECOMMENDATIONS**

### **Recommendations to the Government of Iraq:**

1. Amend the torture bills currently pending legislative examination so that they are fully compliant with the UN Convention Against Torture;
2. Amend or repeal vague and catch-all criminal offences in the Penal Code and Counter-Terrorism legislation;
3. Enact anti-discrimination legislation to recognise and protect members of minority communities;
4. Ensure that individuals deprived of their liberty are immediately informed of the charges against them, allowed to contact family and legal representation and held in pre-trial detention for no longer than is permitted by international standards;
5. Fully respect and implement the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules').
6. Immediately release all human rights defenders, prisoners of conscience and political prisoners;
7. Ensure that torture survivors have access to independent and effective complaint mechanisms;
8. Ensure that confessions extracted by torture are never used as admissible evidence in legal proceedings and fully implement the legal safeguards aimed at preventing this abusive practice;
9. Accede to the Optional Protocol to the Convention against Torture (OPCAT) and establish a national preventative mechanism;
10. Establish a truly independent National Human Rights Commission in line with the Paris Principles.
11. Provide human rights training to law enforcement agencies and prison staff, including on relevant international and UN standards and norms.
12. Fully implement the recommendations of the UN Committee Against Torture and the UN Human Rights Committee following their recent periodic reviews of Iraq.