
Torture in Iraqi Prisons: The Systematic Methods Used by Security Personnel

**A Report by the Iraqi Observatory for Human Rights
(IOHR)**

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I. Introduction

After the change that took place in Iraq in 2003 following the invasion and the end of the brutal dictatorship of Saddam Hussein, it was expected that torture in Iraqi prisons would be abolished, or at least become less prevalent, with the end of that era, and the establishment of a “democratic regime” in Iraq. However, it has become clear over the years that torture in Iraqi state prisons has continued, and often in systematic forms. The Iraqi authorities have failed throughout 17 years to find solutions to this issue, and have not held the perpetrators accountable.

Free media and the tighter monitoring undertaken by local, regional and international human rights activists and organisations have not prevented some security personnel from practicing torture and ill-treatment of prisoners. Moreover, they often videotaped the torturing of victims, as they feared no consequences of such actions.

The incidence of torture in Iraqi prisons has increased over time, particularly during what came to be known as the “secret informant”¹ period during the two terms of Nouri Al-Maliki’s government between 2006 and 2014. This provision remained in effect until the cabinet put an end to it in 2013, a few months before the end of the second term of Al-Maliki’s government, during which practicing torture in prisons increased.²

Despite the fact that Iraq acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in law no. 30 of 2008, the law was not made effective, and did not introduce ways to implement its provisions and hold the perpetrators who commit violations against prisoners accountable.

The Iraqi authorities use torture³ in various stages of law enforcement, but most notably during investigation, where defendants are subjected to severe torture, especially those accused or suspected of committing terrorist acts and joining Da’esh (which refers to itself as the Islamic State).

The practice of torture was not limited to being used on the aforementioned suspects, but was also used against activists⁴ who were arrested by the Iraqi authorities during protests in Al-Basra province during the second half of 2018, in addition to participants in the protests that have been ongoing throughout 2020 in some southern Iraqi provinces.

¹ An informant who cooperates with the Iraqi government and provides information about people, without his identity being disclosed to any parties other than the authorities, and is not a government employee.

² Iraq: Secret Jail Uncovered in Baghdad, Human Rights Watch, 1 February 2011, <https://www.hrw.org/news/2011/02/01/iraq-secret-jail-uncovered-baghdad>

³ Iraq: Judges Disregard Torture Allegations, Human Rights Watch, 31 July 2018, <https://www.hrw.org/news/2018/07/31/iraq-judges-disregard-torture-allegations>

⁴ Adel and 8 Months of Detention and Torture in Iraqi Prisons, Irfaasawtak [Speak Up], 5 October 2020, <https://www.irfaasawtak.com/iraq/2020/10/02/%D8%B9%D8%A7%D8%AF%D9%84-%D9%88-%D8%B4%D9%87%D9%88%D8%B1-%D8%A7%D9%84%D8%A7%D8%B9%D8%AA%D9%82%D8%A7%D9%84-%D9%88%D8%A7%D9%84%D8%AA%D8%B9%D8%B0%D9%8A%D8%A8-%D9%81%D9%8A-%D8%A7%D9%84%D8%B3%D8%AC%D9%88%D9%86-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82%D9%8A%D8%A9>

The Iraqi Observatory for Human Rights (IOHR)⁵ has issued over the past six years a series of written reports and testimonies of released prisoners or relatives of prisoners and detainees, and appealed to the governments of Haider Al-Abadi (2014-2018) and Adel Abdul Mahdi (2018-2019), but neither government responded; on the contrary, torture in prisons escalated, and sometimes even targeted minors.⁶

II. Methodology

Since the inception of the Iraqi Observatory for Human Rights (IOHR) in January 2014, it strived to ensure that the main source of its reports are direct interviews with the victims, their relatives or at least eyewitnesses. The IOHR pursued the same methodology in undertaking this study on torture in Iraqi prisons.

The research methodology included:

- A legal study of Iraqi prisons' framework and the state's definition of torture.
- Interviews with victims and relatives of victims.
- Interviews with activists and members of the Iraqi High Commission for Human Rights (IHCHR).
- Reports by Iraqi national institutions.
- International reports on torture in Iraqi prisons.
- Reports by local and foreign media outlets on the issue of torture in Iraqi prisons.

The study covers several Iraqi provinces, since the IOHR aimed for the study to be as comprehensive as possible. Research involved Iraqi prisons in the central, southern and western provinces, which have been under the control of Da'esh for nearly three years, in addition to northern provinces. However, it doesn't include the provinces of the Iraqi Kurdistan Region because they are subject to different legislation and powers.

This report was written and researched by the IOHR in cooperation with the Gulf Centre for Human Rights (GCHR) through a project funded by the European Union to address torture and accountability in the Gulf region.

III. The Legal Framework of Torture in Iraq

Iraqi legislators are yet to accord a legal definition of torture in a manner that signifies Iraq's compliance with the Constitution and international laws and conventions ratified by Iraq. Nevertheless, the definition stipulated by the Iraqi High Criminal Court's law no. 10 of 2005 could be the most clear and accurate available definition. Article (12/II) paragraph (e) stipulates that "torture is to deliberately cause severe pain and suffering, physically or intellectually, on a person in detention or under the control of the accused, noting that torture does not include pain or suffering resulting from or related to legal sanctions."⁷

⁵ A non-governmental organisation run by a group of activists and journalists, works to monitor and document human rights violations in Iraq.

⁶ Human Rights Watch Criticizes Torture of Children Suspected of Affiliation with Da'esh in Iraq, DW, 6 March 2019, <https://www.dw.com/ar/%D8%B1%D8%A7%D9%8A%D8%AA%D8%B3-%D9%88%D9%88%D8%AA%D8%B4-%D8%AA%D9%86%D8%AA%D9%82%D8%AF-%D8%AA%D8%B9%D8%B0%D9%8A%D8%A8-%D8%A7%D9%84%D8%A3%D8%B7%D9%81%D8%A7%D9%84-%D8%A7%D9%84%D9%85%D8%B4%D8%AA%D8%A8%D9%87-%D9%81%D9%8A-%D8%A7%D9%86%D8%AA%D9%85%D8%A7%D8%A6%D9%87%D9%85-%D9%84%D8%AF%D8%A7%D8%B9%D8%B4-%D9%81%D9%8A-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82/a-47787829>

⁷ The Iraqi High Criminal Court's law no. 10 of 2005.

Notwithstanding the above, this definition cannot be considered sufficient, although it made reference to both physical and psychological forms of torture, as it has limited torture to persons in detention or under the control of the accused, while overlooking to mention torture practiced during arrest, prosecution and the extraction of confessions.

Iraq's Penal Code no. 111 of 1969 addresses torture in article 333 but does not define it. The said law stipulates that “each employee or public service officer who tortured or ordered the torture of a defendant, witness or expert in order to cause them to confess a crime, make a statement or offer information about one, or conceal certain information, or offer a particular opinion about it; can face imprisonment.”⁸

Such generalities of mentioning torture without defining it could contribute to impunity and allow the continuation of practicing torturer without the perpetrators being held accountable, thus transforming the practice of torture from isolated incidents into a systematic phenomenon that the authorities will not be able to eliminate should they decide to do so at a later stage.

Furthermore, the Coalition Provisional Authority's⁹ directive no. 7, section (3) concerning penalties, paragraph (2), also prohibits “torture and cruel, degrading or inhuman treatment or punishment.”¹⁰ Therefore, as in the Penal Code, torture is mentioned without defining it, thereby making it a subjective act that could have multiple definitions and interpretations.

This indicates that the applicable definitions, which are only marginally present in some laws, are incomplete, and confirm that these laws do not conform to Iraq's national and international obligations, and that the Iraqi State violates these obligations and does not enforce them.

The Iraqi Constitution prohibits torture and cruel or inhuman treatment under Section II, article (37/I/c), which prohibits “all forms of psychological and physical torture and inhuman treatment, and any confession made under duress, threat or torture is to be disregarded, and victims are entitled to claim compensation for physical and moral damage they suffered, in accordance with the law.”¹¹

However, these constitutional provisions are not in effect and legislations are needed to support their enforcement, which the Iraqi Council of Representatives did not address throughout four sessions between 2006 and 2018.

According to the Prison and Detention Facilities' Administration Act No. 2 of 2003, the memorandum of the dissolved Coalition Authority;¹² all prisoners and detainees enjoy rights afforded by international standards. Also, the Discipline Act for State and Socialist Sector Employees, no. 14 of 1991¹³ stated that an investigative committee is to be established against any employee or public servant who commits an assault, or practiced torture or acts in violation of the duties of public office, or exceeds the limits of his function by committing an act of torture. The employee is to be subsequently held accountable and subjected to a disciplinary punishment that could amount to dismissal from public service, and being brought to justice. This law is not in force either.

⁸ Penal Code no. 111 of 1969.

⁹ The transitional authority formed to run Iraq's affairs following the overthrow of Saddam Hussein's regime in April 2003.

¹⁰ The Coalition Provisional Authority's directive no. 7 concerning the penal code.

¹¹ The Council of Representatives, The Constitution of the Republic of Iraq.

¹² The Coalition Provisional Authority's Memorandum on Prison and Detention Facilities Administration. This order was repealed by the Inmates and Detainees' Rehabilitation Act no. 14 of 2018.

¹³ The Discipline Act for State and Socialist Sector Employees, no. 14 of 1991.

In addition to the above, Iraqi prisons lack codes of conduct and educational materials against torture, as well as guidelines that can prevent some prison guards from committing acts of torture on account of the prisoner's identity and affiliations, or reduce the incidence of such actions.

Iraq joined the Convention Against Torture¹⁴ per law no. 30 of 2008, filed the accession instrument in July 2011, and passed the 2018 Inmates and Detainees' Rehabilitation Act, which integrated adult and juvenile prison administrations and placed them under the authority and supervision of the Ministry of Justice. However, in 2019, the Iraqi High Commission for Human Rights (IHCHR) noted¹⁵ that the Iraqi government and the House of Representatives took only weak measures towards the implementation of the concluding remarks made by the Committee Against Torture, as well as the recommendations embedded in the reports issued by the IHCHR on prisons and pre-trial detention facilities. The said weak measures were most notably pertaining to the fulfilment of the requirements of fair trials, ensuring justice and reparations for victims of torture, and the prosecution of the perpetrators.

In terms of the right to a lawyer, Iraqi prisons and detention facilities violate Article 19/4 of the Iraqi Constitution, which stipulates that “the right to defense is sacred and guaranteed during all stages of investigation and trial.” The IOHR discovered¹⁶ that lawyers are absent at the preliminary interrogation, which could cause security personnel to inflict torture on the defendants in order to coerce them into making forced confessions.

Moreover, the Iraqi Council of Representatives rejected an anti-torture bill¹⁷ comprising 16 articles, which remains pending approval after the first reading. Certain political interests delayed the second reading and taking the vote on it.¹⁸

Article (2) of the Iraqi anti-torture bill defines torture as “any act or omission of an act that constitutes an aggression, with the intent of obtaining a confession; through causing harm resulting from inflicting pain, physical or psychological torture, inhuman or degrading treatment, to which a person is subjected during arrest, investigation or detention by the investigator.” The legislation failed to mention post-investigation torture during prison terms, which means that no punishment shall be applicable to those who committed torture in prisons and detention facilities, and therefore leading to the impunity of perpetrators who had committed grave actions of torture.

The definition of torture in the draft bill is not compatible with the definition that Iraq is obligated to abide by in accordance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; which states that torture is “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.”

¹⁴ An agreement adopted by the UN General Assembly, and was opened for signature, ratification and accession per Resolution 39/46 of December 10, 1984.

¹⁵ The Iraqi High Commission for Human Rights (IHCHR), The Second Shadow Report for Assessing Iraq's Commitment to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, 2019, <http://ihchr.iq/upload/upfile/ar/82.pdf>

¹⁶ The Monitoring Network at the Iraqi Observatory for Human Rights.

¹⁷ Based on the provisions of Article 61 section (I) and Article (73) section (III) of the Iraqi Constitution, Anti-Torture Act, 2019.

¹⁸ According to a source from the government, during an interview with the Iraqi Observatory for Human Rights.

Article 13 of the Iraqi anti-torture bill provides for a prison sentence or a fine or both punishments against persons who have committed the crime of torture, except in cases where torture leads to death, without specifying a certain term of imprisonment. This grants the judiciary the power to impose sanctions as it deems appropriate, which are often considered rather lax, especially given the lack of judicial independence. The bill did not stipulate any penalties for accomplices or participants in the crime of torture.¹⁹

Despite the fact that torture is prohibited under the 2005 Iraqi Constitution article (37/I/c) as mentioned earlier, and the fact that confessions forced by torture are not to be taken into account; most eyewitness testimonies²⁰ and human rights reports indicate that the Iraqi authorities extracted confessions under torture, which confirms that law enforcement agents violate the provisions of the Iraqi Constitution.

In addition, the IOHR believes that there are deliberate attempts to block the completion of Iraqi legislations on torture, especially that the consecutive Iraqi governments have not ratified the Optional Protocol to the Convention Against Torture,²¹ despite national and international calls to do so.

Article 1 of the Protocol states that “the objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.”

This article would appear to be a key factor that causes Iraq to refrain from joining the Protocol, as the Iraqi government likely fears sudden inspection visits to prisons and therefore exposing what takes place in them.

The IOHR interviewed a member of the Iraqi High Commission for Human Rights (IHCHR), Ali Al-Bayati,²² who said that: “Iraq lacks laws and guidelines for all institutions where torture is committed. The absence of adequate legislation leads to security agencies committing acts of torture. Indeed, prison monitoring is not an easy task, as we need approvals to access the facilities, which may be delayed for many days or weeks. Torture and ill-treatment are being committed in these prisons, and thousands of complaints are submitted every year, but we will never be able to bring an end to torture and reveal the culprits because of the absence of laws and guidelines.”

He added “If the victim of torture wants to file a complaint, he will have to go through procedures that take a long enough time for the physical signs of torture to go away, and there is no point in following through on torture claims at that point. Iraq today must legislate a law that would ensure transparency at agencies where investigation is undertaken, and guarantee a segregation of powers between the agencies that investigate and those who make arrests, while ensuring that investigation is carried out by judicial institutions.”

¹⁹ Iraqi draft laws on torture and enforced disappearances fall short of international human rights standards, MENA Rights Group, 11 December 2019, <https://www.menarights.org/en/articles/iraqi-draft-laws-torture-and-enforced-disappearances-fall-short-international-human-rights>

²⁰ Testimonies documented by the Iraqi Observatory for Human Rights.

²¹ An Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Adopted on 18 December 2002 at the fifty-seventh session of the United Nations General Assembly by resolution A/RES/57/199. Entry into force: 22 June 2006.

²² The Iraqi Observatory for Human Rights interview with IHCHR member Ali Al-Bayati.

IV. Iraqi Security Services' Use of Torture

Iraqi security services carry out major acts of torture against prisoners and detainees. As pointed out in the introduction to this report, those most susceptible to torture are persons accused of terrorism and suspected members of Da'esh. However, activists and protesters are also subject to torture in detention.

Some prisoners have died as a result of torture, and Iraqi officials acknowledged these occurrences²³ through statements they made to the media about acts of torture that claimed the lives of prisoners.

Due to torture, some victims are forced to confess to acts they have not committed, aiming to put an end to the harm being inflicted on their bodies.²⁴ The IOHR interviewed a prisoner in Tikrit City of the Salah Al-Din province²⁵ who talked about the torture he was subjected to during his term in prison. He said: "Before you go through the prison's gate you will have to leave out your humanity and dignity because you will lose both under duress. The terrifying acts of torture to which prisoners in Salah Al-Din province have been subjected led to the death of many detainees."

He added: "Prison supervisors practice different forms of torture with or without a reason. They randomly select people on a daily basis to commit torture against them for sessions extending the entire night. Many detainees have been raped in prisons by security officers in charge."

The family of Ghassan Shihab,²⁶ who passed away at the end of March 2020 in Al-Hout prison in Dhi Qar province at the age of 24, said, "their son was transferred from Salah Al-Din province in northern Iraq to Al-Diwaniyah province in the south of the country, and then to Al-Najaf province."

His mother added that her son "was a child when he was arrested, as he was only 16 years old. After being transferred from one prison to another several times, he was transferred to Al-Hout prison where he was daily subjected to torture by the investigating officers until he died."

In a testimony written by Mustafa Saadoun of the IOHR, based on an interview with Ali Hatem Al-Sulaiman,²⁷ Al-Sulaiman talks about the torture he was subjected to during his detention by the Iraqi army forces in Al-Anbar province. Due to torture that lasted many hours, both his hands were amputated due to restricted blood flow. Today he lives under difficult conditions because of what he has been subjected to.

²³ Death of A Prisoner in Dhi Qar Under Torture Prior to Being Acquitted by the Judiciary, Member of the Iraqi High Commission for Human Rights (IHCHR) Fadhil Al-Gharawi, NRT Arabic, 3 December 2017, https://m.facebook.com/nrt.arabicc/videos/1998052773790553/?refsrc=https%3A%2F%2Fm.facebook.com%2Fwatch%2F_rdr

²⁴ Torture in Iraqi Prisons... The Approach of All Regimes, Alaraby Aljadeed, 28 February 2018, <https://www.alaraby.co.uk/%D8%A7%D9%84%D8%AA%D8%B9%D8%B0%D9%8A%D8%A8-%D9%81%D9%8A-%D8%A7%D9%84%D8%B3%D8%AC%D9%88%D9%86-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82%D9%8A%D8%A9-%D9%86%D9%87%D8%AC-%D9%83%D9%84-%D8%A7%D9%84%D8%A3%D9%86%D8%B8%D9%85%D8%A9>

²⁵ The Iraqi Observatory for Human Rights interview with a prisoner.

²⁶ An interview of the Iraqi Observatory for Human Rights with the relatives of a prisoner.

²⁷ I became A Burden on My Family Because Soldiers Enjoy Torture, Raseef 22, 26 June 2019, <https://raseef22.net/article/1074111-%D8%B5%D8%B1%D8%AA-%D8%B9%D8%A7%D9%84%D8%A9-%D8%B9%D9%84%D9%89-%D8%A3%D9%87%D9%84%D9%8A-%D8%A8%D8%B3%D8%A8%D8%A8-%D8%AD%D8%A8-%D8%AC%D9%86%D9%88%D8%AF-%D9%84%D9%84%D8%AA%D8%B9%D8%B0%D9%8A%D8%A8>

Human Rights Watch reported,²⁸ “The amputation of a detainee's arm in early 2019 after he was subjected to torture at a police station in Baghdad, highlights the growing concerns about ill-treatment in Iraqi prisons.” This occurred when a policeman questioned a detainee and caused serious injuries to his left arm during torture, which led to it being amputated after several failed surgeries. His brother stated that the court completely disregarded the victim's grievance, and that the judicial conduct supervisory body also ignored the complaint submitted by the victim's wife prior to that. The only measure taken when the victim's brother demanded an investigation in the incident was to redeploy the policeman from one station to another, without any disciplinary actions.

The IOHR interviewed another detainee who was released from Al-Muthanna Airport prison in Baghdad.²⁹ The detainee had been arrested in mid-May 2017 during the military operations carried out by Iraqi forces to liberate Mosul from Da'esh.

The prisoner, who did not disclose his name due to fear for his life, said that he was not convicted of terrorism, and that he was arrested while fleeing the areas controlled by Da'esh, after Iraqi forces entered them. However, the Iraqi Rapid Response Force had him arrested for suspicion that he was a member of Da'esh.

This prisoner remained in detention for about seven months, during which he was tortured by security agents, including guards placing his head on the floor and trampling on it with their feet. He also stated that they stood him against a wall many times and alternated punching him, in a game to determine which one of them made the strongest blow.

The prisoner, a resident of the northern Iraqi city of Mosul, talked about witnessing some of his fellow prisoners being beaten, and mentioned that many detainees passed out during acts of torture. According to the detainee, “human rights organisations are oblivious to this when carrying out inspection visits or meeting with prison executives, because they ask us not to talk about it.”

In a joint submission for Iraq's Universal Periodic Review in November 2019, the Gulf Centre for Human Rights (GCHR), the IOHR, Front Line Defenders, the Metro Centre for Journalist Rights and Advocacy, and the Iraqi Civil Society Solidarity Initiative reported on a case of an activist who was tortured for his work protested enforced disappearance in Iraq.³⁰ The UPR submission states, “In July 2018, Imad Al-Tamimi, a volunteer with Al-Wissam Humanitarian Assembly, was abducted in Baghdad by members of the Special Weapons and Tactics Unit (SWAT), who failed to provide a warrant or present any motive for arrest. Al-Tamimi was forced into a pick-up truck, taken to an unknown location where he was detained and interrogated under torture regarding his relationship with Al-Wissam and his knowledge of “Jurf Sakhar”, a secret detention facility operated by the Hezbollah Brigades. Prior to his release on 7 September 2018, Tamimi was forced to sign a document stating that he would no longer participate in anything related to enforced disappearances in Iraq.”

One of the activists arrested at Al-Saadoun police station in Baghdad during the protests in November 2019³¹ reported to the IOHR that he and all those arrested with him remained in custody for days, and were subjected to ill-treatment by police officers during interrogation, and officers used batons to extract confessions from them.

²⁸ Iraq: Amputation Apparently Caused by Torture, Human Rights Watch, 26 June 2019, <https://www.hrw.org/news/2019/06/26/iraq-amputation-apparently-caused-torture>

²⁹ The Iraqi Observatory for Human Rights interview with a prisoner.

³⁰ Submission to the United Nations Universal Periodic Review of Iraq, GCHR, IOHR et al, 1 April 2019, <https://www.gc4hr.org/report/view/97>

³¹ The Iraqi Observatory for Human Rights interview with an activist.

During an interview with the IOHR, this activist said that he was subjected to humiliating actions and beaten with batons as police officers accused him of owing allegiance to another country. When he did not say what they wanted him to say, they subjected him to foot whipping,³² after which he was left bleeding from his feet and denied treatment. He also added that “he used to hear the screams of some of the young detainees, some of whom were under 18 years of age.”

The mother of a prisoner³³ in Al-Hout prison speaks of the last visit she made to her son who was imprisoned there on charges of “terrorism” in early 2019. He told her that he had been subjected to constant torture by some jailers, but noted that “torture does not seem to be systematically practiced there, because only specific agents commit torture, while others do not.”

According to this woman, her son once had his right hand fractured as a result of severe beating by one of the security members. She also reported that prisoners were beaten many times with sticks and batons that the jailers use.

In a Human Rights Watch report,³⁴ a person who was detained at the Interior Ministry's Intelligence and Counter-Terrorism Directorate in east Mosul prison in 2018 said that he witnessed repeated acts of torture and was also subjected himself to torture during interrogation. He stated that several prisoners had died, some due to ill-treatment. The father of another prisoner reported that his son died during interrogation by the local police at a police station in Mosul. A man who was being held at the Intelligence Prison in Qayyarah reported that he saw signs of torture on the bodies of some prisoners after interrogation.

GCHR reported that Maher Radi Abdulhussain, 36, died on 15 July 2019 after being severely tortured³⁵ for five days at a Combating Crime Center in Al-Ghari district in Najaf city, southwest of Baghdad. According to GCHR, “The autopsy report issued on 25 July 2019 made clear the existence of signs of torture on his body, that remained 10 days after his death, including signs of restrictions, flagellation, and bruising.” The cause of death was “severe renal failure resulting from torture,” according to the autopsy report. According to local reports, Abdulhussain was arrested for alleged theft with a group of persons on 10 July 2019, despite lack of evidence.

More than six detainees have been reportedly killed³⁶ in Al-Hout prison in Al-Nasiriyah city since the beginning of 2020, including the detainee Ghassan Shihab Ahmed Al-Majmaie.

Detainees who were expected to be pardoned per an amnesty³⁷ were killed inside the prison before they could be freed.

An Iraqi detainee³⁸ in Ninawa province in northern Iraq told the IOHR that he witnessed the death of six people who were in custody with him in December 2016 as a result of torture by Iraqi security forces.

³² Or bastinado, locally known as *Al-Falaqa*, a method of torture used by the security forces to extract forced confessions from the detainees.

³³ The Iraqi Observatory for Human Rights interview with the mother of a prisoner in Al-Hout prison in Dhi Qar province in the south of the country.

³⁴ Iraq: Chilling Accounts of Torture, Deaths, Human Rights Watch, 19 August 2018, <https://www.hrw.org/news/2018/08/19/iraq-chilling-accounts-torture-deaths>

³⁵ Iraq: Young citizen killed following severe torture, the Gulf Centre for Human Rights 30 July 2019, <https://www.gc4hr.org/news/view/2181>

³⁶ Iraq: Charges of Torturing Prisoners to Death in Al-Hout Prison, Alaraby Aljaded, 17 April 2020, <https://www.alaraby.co.uk/%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D8%A7%D8%AA%D9%87%D8%A7%D9%85%D8%A7%D8%AA-%D8%A8%D8%AA%D8%B9%D8%B0%D9%8A%D8%A8-%D8%B3%D8%AC%D9%86%D8%A7%D8%A1-%D8%AD%D8%AA%D9%89-%D8%A7%D9%84%D9%85%D9%88%D8%AA-%D9%81%D9%8A-%D8%B3%D8%AC%D9%86-%22%D8%A7%D9%84%D8%AD%D9%88%D8%AA%22>

³⁷ Article (1) of the Amnesty Act 2016: A general amnesty may be applicable to an Iraqi sentenced to death, a penalty or a measure involving deprivation of liberty, whether the verdict was issued in absentia or in presentia, and whether it has been confirmed or not, without prejudice to civil, disciplinary or disciplinary responsibility.

³⁸ The Iraqi Observatory for Human Rights interview with a prisoner in Ninawa province, which was liberated from Da'esh in 2017.

They were initially held in a house in Al-Mashraq neighborhood and tortured by Iraqi security agents (he does not recall to which entity they belonged). According to him, torture was committed with the use of batons, buttstocks of rifles and pistols. The prisoners, accused by Iraqi forces of belonging to Da'esh, were beaten on the head, until six people whom he did not know died.

In Al-Faisaliah prison in Ninawa province, dozens of people accused of being members of Da'esh were subjected to systematic torture. Three women³⁹ told the IOHR that their husbands were subjected in this prison to constant torture which caused physical harm and deformities on the backs of the victims due to beatings with batons, sticks and cables.

According to an interview with an Iraqi official, there are more than 60,000 prisoners in Iraq,⁴⁰ including 1,000 women. They are distributed among 13 large prisons in Iraq. Prisons are thus overcrowded, as the number of persons in custody is three times larger than the prisons' capacity, which caused the spread of diseases and of Covid-19 among the prisoners, who are subjected to ill-treatment and torture.

v. Iraqi Government Response to Torture

Preventing torture in Iraqi prisons remains a major challenge for successive Iraqi governments, adding to the economic, political and security challenges they face. However, the authorities since 2003 have not worked to abolish torture or at least limit it.

Iraq has several national institutions dealing with human rights, such as the Ministry of Human Rights (abolished in 2015), the Iraqi High Commission for Human Rights (a national institution), the Human Rights Committee of the House of Representatives. In addition, there are also the executive and oversight bodies at the Ministries of Defense, Interior and Justice, considering that those ministries operate prisons with tens of thousands of detainees.

Government officials in Iraq speak of “prisons where torture rarely occurs” during press interviews, briefings at the United Nations Human Rights Council, or the UN Universal Periodic Review (UPR) of Iraq's record on human rights, but the facts point towards the opposite.

Since its founding in early 2014, the Iraqi Observatory for Human Rights (IOHR) has monitored treatment of detainees within Iraqi prisons. Although the Observatory has no access rights, it has been able to communicate with dozens of prisoners and their families.

The Ministries of Justice, Defense and Interior impose extremely strict procedures on prisons,⁴¹ and do not allow human rights organisations to visit them. It is difficult even for members of the Iraqi High Commission for Human Rights (IHCHR), who may legally undertake sudden inspection visits, to have access at all times.

³⁹ The Iraqi Observatory for Human Rights interviews with prisoners' wives.

⁴⁰ The Iraqi Observatory for Human Rights interview with an Iraqi official.

⁴¹ Iraq's Prisons are Closed to Legal Activists, Alaraby Aljadeed, 2 April 2019, <https://www.alaraby.co.uk/%D8%B3%D8%AC%D9%88%D9%86-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82-%D9%85%D8%AD%D8%B1%D9%91%D9%85%D8%A9-%D8%B9%D9%84%D9%89-%D8%A7%D9%84%D8%AD%D9%82%D9%88%D9%82%D9%8A%D9%8A%D9%86>

Like other files in Iraq, prisons have been impacted by political considerations more than humanitarian and legal ones. This was particularly notable when citizens at different times were arrested on a geographical, sectarian and even political⁴² basis. This encouraged security personnel at some prisons and detention centres of other affiliations to practice various forms of torture, without prison authorities taking any measures to deter them.

Through statistics they got from the Iraqi High Commission for Human Rights (IHCHR), Sputnik News has documented nearly 15,000 cases of torture and ill-treatment in Iraqi prisons⁴³ in 2017 and 2018, rising from nearly 2,000 in 2017 to more than sixfold in 2018.

Fadhil Al-Gharawi,⁴⁴ a member of the IHCHR, confirmed that numerous violations take place in Iraqi prisons, but pointed out that they are often concealed. He noted that “the IHCHR has not received reports from relatives of the detainees regarding these violations, due to fears of being prosecuted, and the lack of trust in government measures. Nevertheless, some violations are monitored through visits undertaken by the Commission to prisons and correctional facilities.”

The IOHR interviewed Al-Gharawi,⁴⁵ who spoke about some prison administrations denying the IHCHR access to the respective facilities, noting that this violates the legislations governing its mandate, and the powers guaranteed by the Commission’s law no. 53 of 2008.

The Iraqi Ministry of Justice, as well as the Ministries of Interior and Defense, withhold the exact figures concerning the number of detainees and prisoners in Iraq.⁴⁶ This confirms – as does denying access to prison inspection visits - that torture in these locations is not out of the sight of the highest government agencies, the Iraqi Council of Representatives and other oversight authorities; and that there are parties who deliberately prevent addressing this problem.

Iraqi authorities receive hundreds of complaints pertaining to ill-treatment and torture in Iraqi prisons,⁴⁷ and prison administrations prevent visits from oversight institutions that have the authority to conduct such visits.

Iraqi MP Raad Aldahlaki⁴⁸ said “The testimonies coming out of Al-Taji prison [north of Baghdad] through released prisoners or relatives of prisoners demonstrate the continuity of the sectarian retaliatory approach and the unethical ways of the prison administration and security authorities.” He added that “This prison has come to be similar to Abu Ghraib prison,⁴⁹ which witnessed the most heinous actions against detainees [by United States soldiers] in 2004. Despite numerous appeals from some MPs to [former] Prime Minister Adel Abdel Mahdi calling for an end to the horrific practices in this prison, no serious action was taken by the government,” according to him.

⁴² Iraq's Sectarian Crisis: A Legacy of Exclusion, Malcolm Kerr Center -Carnegie Middle East, 23 April 2014, <https://carnegie-mec.org/2014/04/23/ar-pub-55405>

⁴³ Overview on Two Years of Torture in Iraq's Prisons, Sputnik Arabic, 20 April 2019, https://arabic.sputniknews.com/arab_world/201904201040608194-%D8%AE%D8%A7%D8%B5-%D8%B3%D8%A8%D9%88%D8%AA%D9%86%D9%8A%D9%83-%D8%AD%D8%B5%D9%8A%D9%84%D8%A9-%D8%B9%D8%A7%D9%85%D9%8A%D9%86-%D8%A7%D9%84%D8%AA%D8%B9%D8%B0%D9%8A%D8%A8-%D8%B3%D8%AC%D9%88%D9%86-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82/

⁴⁴ The File of Violations in Iraqi Prisons Re-emerges, Democratic Arab Center, 2 February 2019, <https://democraticac.de/?p=58893>

⁴⁵ The Iraqi Observatory for Human Rights interview with IHCHR member Fadhil Al-Gharawi.

⁴⁶ Human rights reports, and the Monitoring Network at the Iraqi Observatory for Human Rights.

⁴⁷ The Iraqi Observatory for Human Rights interview with IHCHR member Hemn Al-Bajalan.

⁴⁸ Al-Taji Prison in Iraq: Suffering and Torture Without Limits, Yaqin News, 18 July 2019, <https://yaqinnews.net/reports/206366>

⁴⁹ Abu Ghraib prison’s name was changed to the Baghdad Central Prison, and is located near Abu Ghraib city, 32 km west of Baghdad, the capital of Iraq. This prison became notorious after the occupation of Iraq, and the U.S. Coalition Forces using it and committing ill-treatment of prisoners within it, photographs showing the horrific treatment of prisoners by the forces were made public.

During Iraq's UPR in 2014, Austria, Norway, Spain and the Czech Republic made recommendations calling on the Iraqi government to investigate cases of torture and reform the justice system to eliminate this practice.⁵⁰

Paraguay emphasised that evidence based on confessions forced under torture should not be accepted in judicial proceedings. Other countries called upon the Iraqi government to consider ratifying the Optional Protocol to the Convention against Torture, and inviting the Special Rapporteur on torture to visit the country. The Netherlands called on Iraq to put an end to forced disappearances.

Switzerland warned of the continued violation of the right to fair trials. This recommendation was met by support from Norway, which also demanded full respect for legal procedures, while Germany and other countries expressed concern over conditions of detention.

On the death penalty, Iraq justified its continued use by making reference to the situation in the country. Many countries, however, including Australia, Belgium, France, Greece, Italy, Mexico, Montenegro, Namibia, Paraguay, Portugal, Slovenia, Spain, Turkey and the United Kingdom - demanded a moratorium on capital punishment pending the abolition of the death penalty.

Brazil, Norway and Switzerland reminded the Iraqi Government of the need to respect human rights in all circumstances, and pointed out that the fight against terrorism can not be used to justify abuses. Norway stressed that respect for human rights must be a priority for the authorities because it is an essential element of stability and reconciliation in the country.

vi. Recommendations

In order to ensure that actions of torture and ill-treatment are monitored and eliminated, and to bring justice to torture victims in Iraq, the Iraqi Observatory for Human Rights (IOHR) and the Gulf Centre for Human Rights (GCHR) recommend the following to the Iraqi authorities:

- Enacting the Iraqi anti-torture bill and enforce it in accordance with Iraq's international obligations.
- Complying with the provisions of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and amending local laws in accordance with the International Convention Against Torture.
- Signing the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Conducting immediate, thorough and impartial investigations into all allegations of torture and other forms of ill-treatment, and compensating the victims and/or their relatives.
- Enabling local and international human rights organisations, as well as UN special rapporteurs, to visit prisons and speak to prisoners.
- Abiding by its obligations under the International Covenant on Civil and Political Rights.
- Segregating the functions of the security units that carry out arrests, and only allow investigations with defendants to be conducted by impartial and independent members of law enforcement.
- Reform the forces responsible for prisons, dismiss agents that have committed torture and hold them accountable for these crimes in accordance with Iraqi laws.
- Establish a straightforward mechanism for filing grievances by prisoners and their relatives for any torture or ill-treatment, without fear of prosecution and reprisals.

⁵⁰ Office of the United Nations High Commissioner for Human Rights, Human Rights Council, Universal Periodic Review – Iraq 2014.