



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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REFERENCE: Follow-up/CAT

7 December 2016

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the initial report of Iraq (CAT/C/IRQ/1) by this Committee, at its 55th session, held from 27 July to 14 August 2015. At the end of that session, the Committee's concluding observations (CAT/C/IRQ/CO/1) were transmitted to your Permanent Mission. In paragraph 32 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 15 August 2016, further information regarding areas of particular concern identified by the Committee in paragraphs 12(a), 13, 14 and 16(a) (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective (see, doc. CAT/C/55/3).

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's concluding observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture (cat@ohchr.org). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Iraq on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

Abdelwahab Hani
Rapporteur for Follow-up on Concluding Observations
Committee against Torture

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/IRQ/CO/1 and Corr.1)

IRAQ

(...)

C. Principal subjects of concern and recommendations

(...)

Armed conflict, acts of terrorism and violations of the Convention

11. The Committee deplores the severe human rights violations committed by the so-called Islamic State in Iraq and the Levant (ISIL) and associated armed groups, which may amount to war crimes, crimes against humanity and possibly genocide, as stated in the report prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution S-22/1 (see A/HRC/28/18, para. 78).

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

The Committee recommends that the State party:

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

(...)

Conflict-related sexual violence

13. The Committee is particularly concerned about reports of ISIL fighters raping female captives, and about the fact that this extremist group has instituted a pattern of sexual violence, slavery, abduction and human trafficking targeted at women and girls belonging to religious and ethnic minorities (see S/2015/203, paras. 28-31). It is equally concerned by reports of sexual violence committed by members of the Iraqi

army and militias on all sides of the conflict. The Committee is further concerned at the apparent impunity enjoyed by the perpetrators of such acts (arts. 1, 2, 4 and 16).

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

Fundamental legal safeguards

14. The Committee takes note of the procedural safeguards set out in article 123 of the Code of Criminal Procedure (Act No. 23 of 1971), mainly the right to remain silent and the right to be represented by a lawyer before the investigating judge. It regrets, however, the lack of information provided on the measures and procedures in place to ensure the practical application of these and other fundamental legal safeguards to prevent torture and ill-treatment. In that respect, it has been reported that detainees are frequently deprived of timely access to a lawyer and a medical doctor, and of their right to notify a person of their choice. It is also concerned at allegations regarding the failure to maintain accurate registration records, to adequately inform detained persons about their rights and to adhere to the 24-hour limit for detainees to be brought before a judge (art. 2).

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

(...)

Secret detention in cases involving security concerns

16. The Committee remains concerned at information pointing at a consistent pattern whereby alleged terrorists and other high-security suspects, including minors, are arrested without any warrant, detained incommunicado or held in secret detention centres for extended periods of time, during which they are severely tortured in order to extract confessions. According to allegations received by the Committee, the detention facility at the former Al-Muthanna military airport in West Baghdad, which

was uncovered in 2011, is still open and continues to operate secretly under the control of the 54th and 56th Brigades of the army (arts. 2, 11, 12, 15 and 16).

The State party should:

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

(...)

32. The Committee requests the State party to provide, by 15 August 2016, follow-up information in response to the Committee's recommendations contained in paragraphs 12 (a), 13, 14 and 16 (a).

(...)
