

Iraq's Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

This submission is on behalf of the families of 23 prisoners in Nasiriyah Central prison. It is based on first hand information collected through interviews with families and lawyers representing these prisoners as well as available documents and photos.

The families have submitted a communication to the United Nations Special Rapporteurs on July, 2020. The names of the families and their lawyer are withheld for protection reasons. These are the main concerns raised in relation to the fairness of and treatment during criminal proceedings, and conditions of detention.

All the detainees that are addressing the Committee through this submission were sentenced to death, sentence following the Anti-Terrorism Law by the Central Criminal Court of Iraq which is known for being entrenched with severe flaws in the administration of justice (reliance on confessions obtained under torture, denial of the right to defence, expeditious and unfair trials as will show).

All of the detainees have been sentenced based on confessions that have been extracted under torture. These torture occurred during the investigation stage (after arrest) while they were detained in police facilities or in secret places.

They were all deprived from their liberty without access to a doctor or to a lawyer or even a call to their families.

After long-periods, they were all brought before the investigating judges and were never informed of their right to remain silent or to have a lawyer. Most of them were then unable to inform the investigative judge about the torture they had to face.

These tortures have been repeatedly denounced in all the reports of the United Nations Assistance Mission for Iraq (UNAMI) and international NGO's such as Amnesty International in its report « Punished for Daesh Crimes ».

Despite the calls from NGO's including Amnesty international, the justice did not investigate yet while detainees claimed that they were tortured after.

On the contrary, judges not only accepted to sentence to death penalty upon information extracted through torture but also systematically rejected all torture statements and subsequently refuse to open investigations or to bring the detainees to a doctor.

As a consequence, the Iraqi State did not take yet effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

All the detainees that are addressing the Members of the Committee are currently waiting on death row and the lack of adequate guarantees under Iraqi law, although Iraq ratified the Convention against torture, enable the use of torture even during the current detention.

In 2020, The Covid-19 pandemic confinement measures encouraged the prison guards to act with impunity since the detainees were deprived from any contact for several months (no visits, no phone calls). The situation within Nasiriyah jail was inhumane and known by the State authorities.

Several prisoners died after having being tortured. Those deaths have been reported all over iraki news without leading to any action from the authorities.

The body of the detainees collected by their families is the exact picture of what is going on inside the jail : starvation and torture leading to death.

While authorities pretended that they were “natural deaths” the bodies given back to the families do not let any doubt about the fact that the prisoners have been tortured until death and some of them burnt.

The jail administration also torture the detainees by announcing them randomly that their execution order arrived, although it is not true. The mental trauma and stress provoked by these “announcement” leaves the prisoners in a state of constant terror.

The State authorities never take any steps to investigate the acts of torture suffered by the detainees and, if appropriate, to punish the perpetrators, despite the fact that the situation within the jail was known and reported by several medias.

The prisoners are afraid to lodge complaints since the immediate result of a complaint is extreme reprisals against their family members and punishment (or death) of the prisoner.

Iraqi lawyers are also subject to reprisals. Visits of lawyers to the prisoners are almost nonexistent since the reprisals against prisoner, lawyer and the families are extreme and violent and can lead to death.

The UNAMI itself confessed its difficulties to get full and free access to detention center including Nasiriyah jail.

In 2020 and until Last November, the detainees were 23h45 minutes per day in extremely overcrowded cells, where there is no place to sleep. In the 15 minutes of “Yard time” the prisoners were forced to run around the yard with their hands and ankles bond and whilst they were running they were beaten by the guards and humiliated and threatened. Now, they are never taken outside their overcrowded cells and do not have access to showers.

The fact that the families did not visit for almost one year also aggravated and impacted the access to food and medication.

The prisoners depend on the money sent by the families to be able to feed themselves correctly , but it seems that the money is not given to the detainees.

Several prisoners starved to death. All of the them are undernourished. Drinking water does not exist, the water provided is not suitable for drinking and aggravates even further the health conditions of the prisoners.

Medicines for suffering following torture and for chronic diseases were also used to be provided by the families.

Now, they have to be bought by the detainees. The medication in Iraq is extremely expensive and even before the pandemic the families struggled to be able to buy medication. But, as mentioned they do not have money anymore so they can't buy those medicines.

Medical care and assistance are non-existent, in fact there is no doctor in Nasiriyah Prison.

Tuberculosis (TB) is one of the main illnesses inside the Iraqi prisons since it spreads through the air when a person with TB of the lungs or throat coughs, sneezes, or talks. Although TB is curable and preventable the prisoners denounce that there is no medical assistance and when a prisoner reaches the critical final stage of the disease in Nasiriyah he is injected and dies shortly after.

Iraqi press often confirm deaths of detainees of Nasiriyah central prison due to extreme medical neglect but no step was taken by the Iraqi ministry of health and justice.

The Iraqi Commission for Human Rights denounces also regularly deaths of prisoners due to inexistence of medical treatment.

The acute lack of medical staff and medication is known and has to be addressed urgently.

All those issues have been raised by The UN Special Rapporteurs in their Communication Iraq 4/2020.

Finally, the phone calls continue to be restricted, once every six weeks or even more, during the calls the guards stand next to the prisoners telling them that they have to say that everything is well and ask the families to send more and more money.

Therefore, the phone calls do not convey the reality of the situation. Fortunately, The families visits are now authorized and the detainees confirm that the cruel treatment are still ongoing.

Since January 2022, several detainees confirmed through visits that collective tortures are now ongoing and committed by members of Iraq's SWAT forces who were allowed to enter the jail. It seems that the SWAT has been called to secure Iraqi jails.

Detainees sentenced in relation to terrorism charges are brought in special areas of the jail to be collectively torture by members of those forces. Detainees are injured and it seems that those tortures are being used as a revenge tool.

As far as it known there were no new executions but it does not mean that executions stopped. To date it is still not public who gave the execution orders last year.

In light of the above we ask the Committee to take into account those elements while examining the second periodic period.

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Attached

1) Communication, UA IRQ 9/2020