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Human rights situations that require the Council's attention

**Joint written statement\* submitted by International Organization for the Elimination of All Forms of Racial Discrimination, Association Ma'onah for Human Rights and Immigration, International-Lawyers.Org, Union of Arab Jurists, United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 August 2022]

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\* Issued as received, in the language of submission only.



## **Behind Bars: Horrific Secret Prisons since the United States of America Invasion of Iraq**

### **Introduction**

For many years, the international community has turned a blind eye to the perpetration of human rights violations in Iraq. In 2022, still, hundreds of thousands have fallen victim to a variety of rights abuses including, but not limited to, arbitrary arrest, torture and ill-treatment, and enforced disappearances.

Despite repeated calls by Treaty bodies and international organisations for the Iraqi state to take concrete action to remedy the failure of successive governments and provide for the promotion and protection of basic human rights principles, Iraq indicates no willingness to comply with its international and national obligations. In relevant committee meetings, including CAT and the CED, Iraqi representatives failed to adequately convey their concrete plan of action to improve the situation of human rights in the country.

With this statement, we seek to highlight the gravity of the widespread and systemic human rights violations committed in Iraq, relating to, enforced disappearances, and the use of torture and ill-treatment against civilians and armed actors alike. Such acts continue to be committed against the backdrop of already fragile political institutions, the complete disregard for the rule of law and the inability of the Iraqi state to provide basic amenities such as clean water and electricity.

### **Enforced Disappearances as a tool for political repression**

Since the invasion and occupation of Iraq in 2003, enforced disappearances have been used as a tool for suppressing political opposition. While the use of this practice has been commonplace for decades, its application has only intensified throughout the years. The CED Committee has on multiple occasions expressed its deep concern over the discrepancies between the number provided by Iraq, and those provided by reliable sources, which place the number of victims between 500,000 and one million since 2003. This immense number is only more concerning, as the state party has not taken action to set up a register to account for all those who disappeared, and on the contrary, it even denies the existence of the problem.

Even though the Committee has asked to find the perpetrators to hold them accountable for their gruesome crimes, Iraq remains silent. The Committee stressed the urgency of the situation and emphasised the need to redraft Iraq's national bill on enforced disappearances to accurately classify the severity of the crime in Iraqi national law. Currently, the ability of victims of human rights abuses to receive reparations is hindered by the disparity between the definition of what constitutes a 'victim' in the Convention and Iraqi national law. This has serious ramifications for all the victims of enforced disappearances.

### **Secret detentions and enforced disappearances**

Another widespread issue, which Iraq has come to equally deny, is the existence of secret detention centres. Investigations have stagnated partly due to the government's affiliation with the militia, who are primarily responsible for carrying out enforced disappearances and using the secret prisons to keep the disappeared. Most of the victims of enforced disappearances are brought to secret detention centres, where the most horrific torture methods are used daily. Iraq has always rejected such allegations, although much evidence has been supplied that states otherwise. The government, which has allowed the militia groups to operate legally, has also permitted the use of secret detention centres, which, according to credible sources, counts over 420, a figure higher than the number of official prisons in Iraq.

## **Jurf al-Sakhar**

A prominent example of a secret detention centre is the city of Jurf al-Sakhar, one of the largest secret prisons in the country, whose inhabitants were forcibly disappeared, are now victims of torture, extrajudicial killing and ill-treatment. The city effectively became a secret prison where tens of thousands of civilians from Al-Anbar, Salaheldine, Nineveh and Kirkuk, were abducted while they were escaping from ISIS and other armed groups. To this day Hezbollah militia remains in control of the area. Given the failure of the United States of America administration that allowed the growth and expansion of militias, the inability for the Iraqi government to control these militias in Jurf al-Sakhar and the rest of the country, the grave violations against the Iraqi people will continue.

## **The pervasive use of torture and ill-treatment**

Torture and ill-treatment in Iraqi prisons and detention centres are a widespread tool of repression and violate prisoners' rights as stipulated in international and humanitarian law. Regardless of whether or not there is an allegation or conviction, Iraq's citizens are at constant risk of becoming victims of chilling psychological torture, sexual violence and extreme bodily harm. As a result of the implementation of the Anti-Terrorism Law No. 13 in 2005, detention centres have become host to some of the most inhumane and degrading human rights abuses. Provisions within the Anti-Terrorism Law allow Iraqi Security Forces to arrest anyone perceived to be a threat to national security. Iraqi authorities have arrested and imprisoned countless women and men, who, in overcrowded prisons, become victims to rape, electrical burning, or emotional abuse. Often, innocent civilians are blindfolded, beaten, and killed in Iraqi detention centres. CAT, noting the urgency of the situation, also repeatedly raised the issue of the lack of information on the investigations concerning deaths in custody. The Committee reiterated its request for information on those detained, on the legitimacy of the appointment of judges of the Iraqi courts and further underlined the pressing need for Iraq to align itself with international human rights standards, given the highly alarming information it has received from various parties.

Although Iraq denied cases of torture and its pervasive use, there is solid proof of the opposite. Therefore, Iraq's denial testifies of its unwillingness to comply with its obligations under the Convention. Torture does not occur in isolated incidents; it is deeply ingrained in Iraq's official and military structures.

## **Torture in the context of forced testimony**

Joining impunity and lack of accountability are forced confessions and testimonies by secret informants widely used to justify sentences. Individuals charged with terrorism accounts are denied fair trial, being exposed to horrific forms of inhumane treatment. Armed with a system that allows imposition of the death penalty in any regard, Iraq is still considered one of the five countries with the highest number of state-ordered executions in the world.

## **Death in custody**

Death in custody, is also widespread. This becomes evident when raising the case of Mr. Kais Mahmoud Al-Alousi who died in detention in the Nasiriyah prison on November 6 in 2021, as a direct consequence of being denied medical treatment. Yet, the Iraqi government has done nothing to ensure accountability, remedy to the victims or improvement in prison conditions. In July 2021, Hisham Al-Khuzai and Ali Mubarak al-Shammari, who was falsely convicted for crimes died from severe torture by Iraqi police officials. While these instances demonstrate the clear violations of the Convention Against Torture, they also violate a person's rights to bodily integrity and fair trial, therefore, inter alia, violating Articles 5, 6 and 9 of the Universal Declaration of Human Rights.

## **Mass graves**

Those held in official or secret detention centres are victims of all types of torture, and when killed are thrown into mass graves. Despite authorities being well-aware of their existence, Iraq has failed to take measure to identify victims. Examples of mass graves include one discovered in the Babil province on 5 January 2019, comprising 10 bodies who are assumed to have disappeared. Others have been discovered in Salaheldine in January 2021, counting more than 400 bodies believed to have been abducted. Although today, the government has tried to attribute these deaths to ISIS, the number of mass graves and their recency indicate otherwise.

## **Conclusions and recommendations**

The NGOs signatories to this statement are deeply concerned over the pervasive and systematic human rights violations taking place in Iraq, especially regarding the use of enforced disappearances as a tool for political repression and the systematic use of torture and ill-treatment as a method to garner confessions.

Today, the absence of justice in the country without respect for the rule of law has paralysed victims in their suffering, giving them no possible remedy or legal assistance.

Therefore, we call on the UN Human Rights Council to:

- Urge the Iraqi government to establish an official register of all people who have been victims of enforced disappearances since 2003 in order to hold those responsible accountable;
- Urge various UN Bodies to plan a visit to Iraq, to investigate the current situation on the ground, which requires immediate attention;
- Establish an international independent committee to investigate human rights violations committed inside secret prisons in Iraq, which amount to crimes against humanity;
- Urge Iraq to promptly comply with its obligations under the Convention Against Torture, especially Articles 2, 4, 11 and 13, to which it is a state party;
- Provide reliable and truthful information about the existence of secret detention facilities, allowing the keeping of records of victims to ensure remedy and accountability.

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Geneva International Centre for Justice (GICJ), Just Atonement Inc., Arab Lawyers Association-UK, Human Rights Defenders (HRD), Brussels Tribunal, Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organization for Justice & Democracy in Iraq (OJDI), Iraqi Centre for Human Rights, NGO(s) without consultative status, also share the views expressed in this statement.