



Initiators Organization for Human Rights & Democracy

Toward an active strategy against torture for fragile countries (Iraq, Syria, Libya, and Yemen)

All four countries have been and still going through very extraordinary circumstances led to the change in their regimes or violent attempts to change their regimes. In fact, the current situation required urgent need to adopt comprehensive and serious steps to manage the transitional justice and deal professionally and impartially with all violence that happened in the past preventing such violations from happening in the present or in the future. Achieving the serious steps that need to be taken means that the criminal justice staff, in these countries, have to adopt a clear strategy against torture and other forms of unprofessional, inhuman, cruel, degrading, and excessive force, and adopt a prevention and early intervention strategy against any practice will lead to unjust results depending on any information that was taken by torture.

Adopt such strategy depend on three main principles, in our opinion:

1. **Legitimacy:** adopt active legal frameworks that are consistent with the national, regional, international legal and procedural rules that included prevention, early intervention, and punitive philosophy in their articles when they were drafted.
2. **Transparency:** Adopt a clear policy to monitor, discover, and charge the correctional institutions for any violation by allowing dependent and independent national, regional, and international monitoring agencies do their job. Also, adopt a secure policy against torture by disclosing all information to the defence attorney, victims' doctor, and to the victim's family.
3. **Empowerment:** Empower the practical skills and capacities of the main characters in the judicial system (judges, public defenders, attorneys, prison administration staff, investigation unites, forensic medicine staff, governmental and non governmental inspectors and observers, legislatures, and media) to actively practice the prevention and early intervention plans, policies against torture, and adopt the best practice model to end such violations.

The most important steps in any transitional system are the recognition that there were violations committed, the new authority will stand against such violations, and the serious desire to stop them from happening again. These main principles have to be translated to practical actions as below:

1. Public condemnation by the representatives of the three main authorities(legislature, executive, and judicial) to any form of torture, inhuman, cruel, and degrading treatment. This condemnation must be associated with serious efforts to criminalize such violations.
2. Adopt all constitutional and laws amendments which will secure the absolute prevention of torture and guarantee the main securities in the constitution followed by



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the necessary procedures to amend or cancel unjust criminal laws with consideration to the international laws that were ratified to prevent torture, inhuman, cruel and degrading treatment. Also, need serious efforts to join and ratify the international convention against torture and all forms of inhuman cruel, degrading treatment 1984 and its protocol.

3. Avoid the denial approach and adopt the clear, true, and accountability approach to deal professionally with all violations that happened in the past or will happen in the future by documenting these violations, charge the perpetrators, and provide justice to the victims.

4. Prevent the recurrence of violations by adopting the purification policy at all public and general functions and purify the criminal justice sector from any influence in the judicial, executive, or monitoring branches.

5. Diversification the monitoring strategies among correctional institutions and detention facilities at the national level to include the independent agencies that work independently from the executive authority such as the judicial, parliamentary, or national monitoring institutions. These national monitoring institutions' efforts have to be harmonized with all efforts of the non governmental agencies, community efforts, and specialized international organizations such as Red Cross, Amnesty, and Human Rights Watch.

6. Activation of the legal guarantees and the necessary procedures as soon as possible to stop torture and other forms of inhuman cruel and degrading treatment by adopting early intervention mechanisms against torture supported by an active complaint system that gives clear roles to the detainees, their attorneys, doctors, and their families to discover the torture and stand against it.

7. Positively dealing with the national mechanisms against torture by actively exchange information regardless of the contractual and non contractual mechanisms and procedures.

8. Open the door to the media and develop media workers' capacities and skills to actively and professionally deliver torture stories, which will promote the anti-torture culture, stand against it, and stop the non punishment culture. Also, encourage the transparency at all correction institutions and detention centers, which will participate in building public awareness and respect the general principles of human rights that were inspired by the international human rights law, convention against torture and systematic violence, protection of victims' rights and support them.

9. Have long term training plans and programs to all criminal justice staff and supervisors which will enable them to do their job professionally and according to their legal obligations against any violation.

10. Adopt a clear justice policy to support torture victims by professional workers ,provide justice, provide mental and social services to the victims and their families.



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11. Adopt the best practice model against torture and human rights protection as a part of the fight against terrorism.

Adopting these recommendations by the four countries will enable them to have active national mechanisms against torture with consideration to the differences of their international positions; even though they have received same international critic in regards to their torture records. Iraq, Yemen, and Libya, signed and ratified the International Convention of the Civil and Political Rights and the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment. While Syria did not ratify the Convention Against Torture. On the national level, these countries need to adopt active legal frameworks and include articles against torture in their constitutions and national laws. They need to adopt national laws against torture that must include a clear definition of torture consistent with article one of the Convention Against Torture. Iraqi is the only country that has a constitutional article prohibits torture; while the other three countries failed to have such article in their constitutions. At the Iraqi national level, Iraqi does not have a specific nations law against torture. However, there was a draft of law “ law against torture” proposed by the Iraqi Ministry of Justice to the State Council , which is the only authority in Iraqi has the right to draft and scrutinize such proposal. Even though we supported this draft, it does not satisfy our ambitious because the punishment philosophy is the dominant aspect in this proposed draft and it misses the prevention and early intervention philosophy. On the other hand, we recommend full reconsideration, review, and redraft it again and add additional articles that guarantee and cover wide range of Iraq international obligations in consistent with the national laws.

On the monitoring level, all mentioned countries, except Iraq, still at the planning and preparing legal frameworks level. Iraq is the only country that has an active divers monitoring system. This monitoring system has different types of agencies dependent independent, governmental, non governmental agencies, and national agencies. The other three countries can benefit from the Iraqi model in the monitoring system since all countries have same circumstances and political climate. Iraqi monitoring system is a model that other countries can adopt the successful experience and avoid the unsuccessful one in planning their future steps in this regards. Even Though, the Iraqi model is still under development, it considers as a very rich experience we can not ignore it with all regards to the successes and failures.

IOHRD, through its professional, practical, and academic experts in the judicial, monitoring and legislation systems, is ready to provide consultation and support to all considered institutions in the three countries, Syria, Libya, and Yemen to enable them have an active strategy against torture.