

Committee against Torture

Concluding observations on the second periodic report of Iraq *

1. The Committee against Torture considered the second periodic report of Iraq¹ at its 1887th and 1890th meetings,² held on 26 and 27 April 2022, and adopted the present concluding observations at its 1903rd meeting, held on 9 May 2022.

A. Introduction

2. The Committee welcomes the timely submission of the second periodic report of the State party. The Committee appreciates the State party's written replies³ to the list of issues,⁴ along with the supplementary information provided during the consideration of the periodic report.

3. The Committee also appreciates having had the opportunity to engage in a constructive dialogue with the State party's high-level delegation, although it regrets that some of its questions remained unanswered.

B. Positive aspects

4. The Committee welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including the adoption of:

- (a) The Yazidi Female Survivor's Law No. 8 of 2021;
- (b) The Prisoners and Detainees Reform Law No. 14 of 2018;
- (c) The Protection of Witnesses, Experts, Informants and Victims Law No. 58 of 2017;
- (d) The Joining Judicial Institute to Supreme Judicial Council Law No. 70 of 2017;
- (e) The transplantation of human organs and prohibition of trade therein Law No. 11 of 2016;
- (f) The General Amnesty Law No. 27 of 2016;
- (g) The Forensic Medicine Law No. 37, as amended by Law No. 56 of 2015.

* Adopted by the Committee at its seventy-third session (19 April - 13 May 2022).

¹ CAT/C/IRQ/2.

² See CAT/C/SR.1887 and CAT/C/SR.1890.

³ CAT/C/IRQ/RQ/2.

⁴ CAT/C/CUB/Q/3.

5. The Committee commends the State party's initiatives to amend its policies and procedures in order to afford greater human rights protection and to apply the Convention, in particular:

- (a) The National strategy for reproductive health for 2018-2022;
- (b) The National Plan for the Empowerment of women for 2022-2030;
- (c) The Iraq National Child Protection Policy in 2017;
- (d) The implementing guidelines for the Law No. 58 of 2017 concerning the Protection of Witnesses, Experts, Informants and Victims of the Supreme Judicial Council;
- (e) The adoption of regulation No. 7 of 2017 regarding the shelters for victims of human trafficking;
- (f) The standing national committee on international humanitarian law pursuant to Administrative Order No. 10 of 2015.

6. The Committee commends the State party for the adoption of the National Human Rights Plan (2021-2025), which foresees priorities to combat torture, enforced disappearances, and gender-based violence, among others. It also welcomes the launch of the Kurdistan Regional Plan for Human Rights (2021 – 2025).

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations,⁵ the Committee requested the State party to provide information on its implementation of the Committee's recommendations on: armed conflict, acts of terrorism and violations of the Convention; conflict-related sexual violence; fundamental legal safeguards; and, secret detention in cases involving security concerns.⁶ While noting with appreciation the replies submitted by the State party⁷ and referring to the letter dated 23 July 2020 from the Committee's Rapporteur for follow-up to concluding observations, the Committee considers that the recommendation included in paragraph 12 (a) of the previous concluding observations has not been implemented and that the recommendation included in paragraph 14 has been only partially implemented. The information provided by the State party regarding paragraphs 13 and 16 (a) of the concluding observations is considered insufficient to assess implementation. Those issues are covered in paragraphs 18-19, 20-21, 10-11 and 16-17 of the present concluding observations.

Definition and criminalization of torture

8. With reference to its previous concluding observations,⁸ the Committee remains concerned at the delay in the adoption of the Anti-Torture legislation. It notes that two draft bills have been prepared already and the bill presented by the Ministry of Justice is currently pending its legislative examination. The Committee is, however, concerned at the information received that such draft bill still falls short of the Convention's requirement consistent with its article 1, as it does not contain all elements of crime of torture, among others⁹ (arts. 1, 2 and 4).

9. **In the light of the State party's pledges to the Human Rights Council in November 2019,¹⁰ the Committee urges the State party to expedite the adoption of the Anti-Torture bill, ensuring it covers all the elements contained in article 1 of the Convention. In that connection, the Committee wishes to draw the State party's**

⁵ CAT/C/IRQ/CO/1, para. 32 and CAT/C/IRQ/CO/1/Corr.1.

⁶ See CAT/C/IRQ/CO/1, paras. 12 (a), 13, 14 and 16 (a).

⁷ CAT/C/IRQ/FCO/1.

⁸ CAT/C/IRQ/CO/1, paras. 10 and 27.

⁹ CCPR/C/IRQ/CO/6, paras. 20-21.

¹⁰ A/HRC/43/14, para. 147.152 in conjunction with A/HRC/43/14/Add.1.

attention to its general comment No. 2 (2007) on the implementation of article 2 by States parties, in which it points out that serious discrepancies between the definition in the Convention and the definition in domestic law create actual or potential loopholes for impunity. The State party should ensure that torture is excluded from the scope of amnesty laws and ensure full respect for the absolute and non-derogable character of the prohibition of torture. The State party should also ensure that offences involving acts of torture are punishable by appropriate penalties that take into account their grave nature, in accordance with article 4 (2) of the Convention. Lastly, the State party should ensure that the principle of command or superior responsibility for acts of torture committed by subordinates is explicitly recognized in the forthcoming bill.

Fundamental legal safeguards

10. While taking note of the procedural safeguards to prevent torture and ill-treatment that are enshrined in Iraqi law, the Committee remains concerned at reports indicating that persons in custody are not routinely afforded all fundamental legal safeguards from the very outset of deprivation of liberty in practice.¹¹ In that respect, it has been reported that (i) the right to access to a lawyer is systematically delayed and exercised only after the preliminary investigation interviews with the security forces and the investigative judge have taken place; (ii) the persons suspected of terrorism-related offences are often not provided effective legal representation; (iii) the access to an independent medical examination is not a standard practice aimed at uncovering signs of torture and ill-treatment, particularly for persons in pre-trial detention; (iv) the right to notify a relative or a person of one's choice is often delayed; (v) the arrested persons are brought before the investigative judge several days or even weeks after their arrest, well-beyond the 24-hour limit, as provided by Iraqi law; and (vi) the registers for all persons deprived of liberty are not interconnected and centralized¹² (art. 2).

11. **Recalling its previous recommendations,¹³ the Committee recommends that the State party:**

(a) Ensure that all persons deprived of their liberty are afforded in practice all fundamental legal safeguards from the very outset of their deprivation of liberty, notably (i) being informed of their right to unimpeded access to an independent lawyer of their choice or, if necessary, to free legal aid of adequate quality, including during the initial interrogation and inquiry; (ii) having the right to request and receive an independent and confidential medical examination, free of charge, or by a doctor of their choice upon request; (iii) being able to notify a family member or any other person of their own choice of their detention immediately after apprehension; and (iv) being brought before a judge within the time frame prescribed by law;

(b) Systematically verify that the competent officials respect the strict keeping of registers in practice and establish a computerized, central register, accessible to any competent authority;

(c) Provide information to the Committee on the number of complaints received regarding failure to respect fundamental legal safeguards and on the outcome of such complaints, including disciplinary measures taken against officials who fail to afford fundamental legal safeguards, in the next periodic report.

Allegations of widespread torture or ill-treatment and the lack of accountability

12. While noting the State party's delegation denial of the existence of torture in places of detention, the Committee remains concerned at reports indicating that persons in custody, including in the facilities under the authority of security forces and facilities reportedly unknown to detainees, are subjected to torture or ill-treatment, particularly during the investigation stage of the proceedings. According to the information before the Committee, detainees often do not lodge complaints due to their fear of retaliation, and where such complaints are lodged, the information on investigations carried out and their outcome is

¹¹ CED/C/IRQ/OAI/1, paras. 18-19; CCPR/C/IRQ/CO/6, paras. 22-23.

¹² CED/C/IRQ/OAI/1, paras. 20-21.

¹³ CAT/C/IRQ/CO/1, para. 14.

lacking. Moreover, the role of investigative judge casts doubt on the impartiality of investigations into torture allegations during the ongoing proceeding, as the same investigative judge leading the investigation into an alleged criminal offence remains responsible for investigations of torture claims. The Committee notes information provided by the delegation concerning the investigations into allegations of torture and death in custody in a detention facility under the authority of the Ministry of the Interior in Mosul but notes with concern that it has not received comprehensive data on those investigations undertaken and their outcome. Finally, the Committee observes that the mechanisms established by the State party to receive and investigate complaints of torture and ill-treatment by officials are not leading in practice to meaningful accountability for perpetrators. By way of example, cases of torture, prevalently from convicted persons, seem to arrive before the human rights courts only after they have been preliminarily examined by the Iraqi High Commission for Human Rights (IHCHR) and investigated by the Prosecution Office and the subsequent proceedings before those courts remain slow (arts. 2, 12-13 and 16).

13. The State party is urged to immediately address the problem of impunity and adopt measures to ensure accountability in practice for all acts of torture or ill-treatment involving public officials and non-official accomplices by undertaking prompt, impartial and effective investigations into complaints by an independent mechanism, prosecuting perpetrators of such violence and punishing them with appropriate penalties. Ensure, in practice and as required under applicable law, that persons under investigation for having committed acts of torture or ill-treatment are immediately suspended from their duties and remain so throughout the investigation. The State party should guarantee the protection of the complainants and witnesses in practice against any ill-treatment or intimidation as a consequence of their complaints.

Confessions obtained through torture and ill-treatment

14. The Committee is concerned at reports indicating that despite the existing legal provisions regarding the inadmissibility of evidence obtained by unlawful means, coerced confessions are reportedly admitted as evidence in the courts, notably in the terrorism-related cases, including in the case of children. Moreover, the information before the Committee suggests that the allegations of forced confessions under torture or ill-treatment made before the trial or appeal judge are often ignored and not thoroughly pursued and that serious shortcomings in documenting signs of physical as well as psychological torture are often caused by the lapse of time between the alleged event and its belated investigation (art. 15).

15. The State party should ensure in practice that confessions obtained through torture or ill-treatment are ruled inadmissible and investigated; expand specialized training programmes for both judges and prosecutors so as to ensure their ability to effectively identify torture and ill-treatment and investigate all allegations of such acts; develop training modules for law enforcement officers on non-coercive interviewing and investigation techniques; provide the Committee with information on any cases in which confessions were deemed inadmissible on the grounds that they had been obtained through torture or ill-treatment, and indicate whether any officials have been prosecuted and punished for extracting such confessions.

Unofficial places of detention

16. While noting the domestic prohibition of unlawful detention in places not designated for that purpose, as well as the State party's assertion that there is no evidence of the existence of secret places of detention, the Committee continues to receive information from credible sources of unlawful and incommunicado detentions in unknown facilities¹⁴ (arts. 2, 11 and 16).

¹⁴ CCPR/C/IRQ/CO/6, paras. 22-23; CED/C/IRQ/OAI/1, paras. 16-17.

17. **Recalling its previous recommendation,¹⁵ the Committee urges the State party to ensure, as a matter of priority, that the national legislation is applied effectively throughout the country and immediately close all unofficial places of detention.**

Counter-terrorism measures and military operations

18. The Committee takes note of the State party's efforts to investigate and prosecute crimes committed by the so-called Islamic State in Iraq and the Levant (ISIL),¹⁶ including the draft International Crimes Law to try ISIS affiliates. It notes further efforts made by the Kurdistan Regional Government, including the draft legislation establishing a criminal court to address the crimes committed by ISIL. However, it remains concerned at reports of the allegations of torture, ill-treatment, arbitrary arrests, unlawful detentions and enforced disappearances,¹⁷ committed by the Iraqi forces and the affiliated armed actors, during the military operations and the counter-terrorism campaigns and the lack of information on investigation and prosecutions in this regards. In addition, the Committee is concerned at the prosecution of ISIL fighters based primarily on the counter-terrorism legislation before both, Federal and Kurdistan courts, which fails to reflect the nature and gravity of the international crimes reportedly committed by ISIL, and such practice excludes victims from participating in trials. In addition, rape and other acts of sexual violence are not criminalized under such legislation. While noting the State party's information on the ongoing revision of the Anti-Terrorism Law, the broad definition of terrorism falling short of international standards continues to be applied.¹⁸ In addition, children are reportedly detained by security forces and convicted on the overbroad national-security-related charges for mere affiliation to ISIL.¹⁹ Also of concern is the reported denial of fair trial rights and due process guarantees in the related proceedings (arts. 2, 11, 14 and 16).

19. **The Committee recalls its previous recommendations²⁰ and urges the State party to:**

(a) Ensure that persons deprived of their liberty who are accused of acts of terrorism enjoy basic safeguards against torture, including the right to be brought before a judge without delay;

(b) Undertake prompt, thorough and impartial investigations into all allegations of torture, ill-treatment and other violations committed by State and non-State actors in the context of countering terrorism and military operations, undertake prosecutions, where necessary, ensure that all victims obtain redress and strengthen ongoing efforts to deliver the training on preventing human rights abuses during counter-terrorism and military operations;

(c) Take all appropriate measures to investigate allegations of the international crimes committed by ISIL, reflecting their nature and gravity, and provide appropriate mechanisms to address those crimes, including reconciliation and comprehensive reparations;

(d) Take appropriate measures to bring to an end prosecution of children based on charges related to their mere assumed affiliation to ISIL, rather than their involvement in violent crimes, rehabilitate and reintegrate those children and provide them with appropriate services. Where criminal prosecutions for violent crimes are necessary, ensure that treatment of minors is in line with international standards on juvenile justice and that alternatives to detention are pursued as much as possible;

(e) Take necessary steps to ensure that all legislation related to combating terrorism, including the forthcoming amendment of the Anti-Terrorism Law, is in full conformity with the Convention and international standards, that adequate and

¹⁵ See CAT/C/IRQ/CO/1, para. 16.

¹⁶ CAT/C/IRQ/CO/1, paras. 11-12.

¹⁷ The Committee takes note of the forthcoming visit by the delegation of experts of the Committee on Enforced Disappearances to the State party, tentatively scheduled for November 2022

¹⁸ CCPR/C/IRQ/CO/6, paras. 16-17.

¹⁹ UN. Doc. S/2022/46, para. 27.

²⁰ CAT/C/IRQ/CO/1, paras. 11-12.

effective legal safeguards and fair trial guarantees are in place in practice, and no arbitrary arrest, unlawful detentions and enforced disappearances are carried out under the guise of countering terrorism.

Conflict-related sexual violence

20. While noting the State party's efforts to redress survivors of conflict-related sexual and gender-based violence, the Committee remains concerned at the information received on the reported slow progress in implementation of the Yazidi Survivors' Law and the current lack of funds allocated to that effect. It also notes that the Law does not address the status of children born of rape by members of ISIL and the definition of survivor does not include members of some minority communities.²¹ While noting the progress made with respect to the investigations of abductions by ISIL (5,170 registered files, out of which 2324 cases concluded in the courts and 3,552 persons rescued), concerns remain as to the 2,719 people registered as missing (art. 1, 2, 4, 14 and 16).

21. The State party should strengthen its efforts to rescue the victims still in ISIL captivity and investigate and prosecute all acts of conflict-related sexual violence. It should ensure that victims are able to effectively and expeditiously claim and receive all relevant forms of redress, which includes comprehensive, inclusive and survivor-centred rehabilitation programmes and guarantees of non-repetition. To this end, the State party should ensure effective and timely implementation of the Yazidi Survivors Law by (i) allocating sufficient funds, (ii) enhancing processing of claims, (iii) ensuring the active participation of women from conflict-impacted communities in its implementation, for example through consultation or inclusion as staff, and (iv) conducting regular capacity building of all staff working on its implementation, including on ethical and trauma informed engagement with victims. The State party should also guarantee the victims' right to participate in criminal proceedings effectively, accompanied by safeguards to avoid stigmatization, hence re-traumatization and ensure that specialized rehabilitation services are promptly made available to all survivors.

Monitoring of detention facilities

22. While noting the information on the detention monitoring activities by the IHCHR, the Committee notes with concern that, pursuant to Article 45(4) of the Prisoners and Detainees Reforms Law, visits to places of deprivation of liberty are subjected to prior agreement on the dates with the relevant authorities, including the visits to detention centres where suspects of terrorism are being held –in contradiction with the IHCHR's mandate to make unannounced monitoring visits without any prior approval to all places of deprivation of liberty.²² The Committee further notes that the Prisoners and Detainees Reforms Law does not provide for the civil society organizations to conduct monitoring visits to places of deprivation of liberty. In this connection, the Committee appreciates the State party's information on a draft law to amend this piece of legislation and expects further information in due course (arts. 2, 11 and 16).

23. The State party should:

- (a) Amend promptly the Prisoners and Detainees Reforms Law and guarantee an unhindered access during unannounced visits of IHCHR;**
- (b) Continue ensuring that international and national monitors are able to undertake visits to all places of deprivation of liberty in the State party;**
- (c) Consider ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.**

²¹ S/2022/46, para. 46.

²² CCPR/C/IRQ/CO/6, paras. 20-21.

Conditions of detention

24. Notwithstanding the explanations offered by the State party's delegation regarding the ongoing reform of the Iraqi prison system, including in the Kurdistan region, and in relation to the measures taken during the COVID-19 pandemic, the Committee remains concerned at reports indicating overcrowding and poor material conditions of detention in places of deprivation of liberty, in particular water supply and sanitation problems, poor quality of the food provided, shortages in medical and health-care services, lack of psychosocial support for those who need specialized services, especially persons with disabilities, and limited recreational or educational activities to foster rehabilitation. Of particular concern are the material conditions and treatment of women and girls held in detention facilities under the authority of the security forces, including allegations of sexual harassment and various forms of exploitation and abuse. The Committee also regrets the lack of comprehensive official data on the number of pre-trial detainees, convicted prisoners, location and occupancy rate of all places of deprivation of liberty, desegregated by the facilities under the auspices of all relevant ministries or other authorities (arts. 11 and 16).

25. The Committee calls on the State party to intensify its efforts to bring conditions of detention into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), and in particular to:

(a) Reduce overcrowding in prisons by making more use of alternatives to detention and continue to implement plans to develop the prison infrastructure and improve detention conditions;

(b) Carry out a routine medical examination at the start of detention, paying particular attention to persons in pre-trial detention, compile an individual, comprehensive and confidential medical file for each detainee, and take every necessary measure to combat infectious diseases in places of deprivation of liberty and provide a sufficient number of qualified, trained staff, including professional guards and medical personnel to ensure the provision of appropriate care;

(c) Ensure that female prisoners have access to adequate health facilities and hygienic services and are detained in gender-sensitive conditions, and that prisons are adapted to the needs of detainees with disabilities, and prevent, monitor and document incidents of sexual harassment and other violence in detention;

(d) Facilitate access to recreational and cultural activities in places of detention and prison facilities, as well as vocational training and education, with a view to supporting detainees' rehabilitation in the community;

(e) Provide the requested data on the number of pre-trial detainees and convicts in all facilities in its next periodic report.

Juvenile justice

26. The Committee is concerned at the low minimum age of criminal responsibility – nine years of age – currently subject to amendment to 11 years, as is the case in Kurdistan region.²³ It is also concerned at the information of overcrowding and inappropriate material conditions in the centres accommodating juveniles and the lack of access to appropriate educational and rehabilitative programmes (arts. 2, 11 and 16).

27. The State party should raise the minimum age of criminal responsibility to an internationally acceptable standard and ensure the full implementation of juvenile justice standards and of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

²³ CCPR/C/IRQ/CO/6, paras. 36-37.

Deaths in custody

28. According to the information provided by the State party's delegation, in 2021 alone, 461 deaths in custody had been registered, without specifying the facilities. The Committee regrets that the State party did not submit complete statistical information for the entire period under review, disaggregated by places of detention, including the facilities under the authority of the Ministries of Interior and Defence and intelligence services, sex, age and ethnicity or nationality of the deceased, and cause of death. The Committee is also concerned at the allegations of causes of deaths in custody, including torture and the lack of health care, and regrets the lack of information on investigation undertaken in that regard (arts. 2, 11 and 16).

29. **The State party should:**

(a) **Ensure that all instances of deaths in custody are promptly and impartially investigated by an independent entity, including by means of independent forensic examinations, and, where appropriate, apply the corresponding sanctions;**

(b) **Consider adopting a standard operating procedure to investigate deaths in custody;**

(c) **Assess the effectiveness of programmes for the prevention, detection and treatment of infectious diseases in prisons;**

(d) **Compile and provide to the Committee detailed information on the cases of death in all places of detention, their causes, and the outcome of the investigations.**

Death penalty

30. While welcoming *de facto* moratorium established in Kurdistan Region since 2008, the Committee regrets to note that it was reportedly breached on several occasions in 2015 and 2016. It further notes that the capital punishment continues to be imposed in Federal courts of Iraq, also involving foreign nationals, and the executions carried out. Furthermore, it regrets the lack of comprehensive figures and information on legal safeguards in this regard. The Committee is also concerned at the reports suggesting that such sentences are prevalently handed down under the counter-terrorism legislation and often accompanied by the lack of due process and fair trial guarantees. In addition, the Committee is concerned at reports that prisoners on death row in Nasiriyah central prison have been held in deplorable material conditions, often subjected to torture and ill-treatment, including false threats from the prison guards about their imminent execution. Furthermore, and as confirmed by the delegation in its written reply to the Committee's question, the families are reportedly not notified prior to executions of their relatives, as envisaged in article 291 Criminal Procedure Code (arts. 2, 11 and 16).

31. **The Committee urges the State party to establish a moratorium on the death penalty; continue its efforts to commute all death sentences into alternative penalties; improve the conditions of detention of prisoners on death row; review, in the light of its international obligations, the application of the counter-terrorism legislation and other relevant laws that may entail the imposition of the death penalty; strengthen legal safeguards and guarantees of due process in all phases of the proceedings and concerning all offences; ensure that families are properly notified of impending executions, and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.**

Excessive use of force during the 2019-2020 protests

32. The Committee is concerned at the allegations of excessive use of force, notably the use of less-lethal weapons resulting in deaths and injuries, including of children, arbitrary arrests, incommunicado detention,²⁴ torture and ill-treatment and enforced disappearances²⁵ by security forces as well as by the unidentified armed elements in the context of

²⁴ CED/C/IRQ/OAI/1, paras. 18-19.

²⁵ CED/C/IRQ/OAI/1, paras. 14-15.

demonstrations that have occurred since October 2019.²⁶ It is further distressed about the allegations of abduction, attacks and intimidation of journalists and human rights defenders. The Committee notes the State party's commitment to ensure accountability for the above acts, including the establishment of an independent fact-finding committee and the judicial investigative committees in each demonstration-affected governorate. However, it regrets the lack of public reports on the actions taken by the fact-finding committee, the limited progress on investigations and the fact that only a handful of prosecutions have been undertaken to date²⁷ (arts. 2, 12–14 and 16).

33. **The State party should:**

(a) **Review domestic legislation on the use of force and weapons and develop clear guidelines, if necessary, incorporating the principles of lawfulness, necessity and proportionality, and the precautionary principle, bring the laws and regulations governing the use of force into line with international standards, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (2019), and provide training to all security forces on these principles;**

(b) **Ensure that law and order is maintained, to the greatest extent possible, by civilian authorities and ensure that all officers can be effectively identified at all times when carrying out their functions to help ensure individual accountability and protection against acts of torture and ill-treatment;**

(c) **Ensure that prompt, impartial and effective investigations are undertaken into all allegations described above by State and non-State actors and ensure that the perpetrators are prosecuted and the victims or their families receive full redress.**

Redress, including compensation and rehabilitation

34. With reference to its previous concluding observations,²⁸ the Committee regrets that the State party failed to provide comprehensive information on redress afforded to victims of torture or ill-treatment under the existing legislation providing for civil remedies or under any other viable recourse allowing those victims to claim pecuniary as well as non-pecuniary damages and access medical and psychosocial rehabilitation (arts. 14).

35. **The State party should ensure that victims of torture and ill-treatment obtain redress, including the means for as full a rehabilitation as possible, as set out in its general comment No. 3 (2012).**

Principle of non-refoulement

36. The Committee notes that the draft bill concerning refugees is still pending its approval before the Council of Representatives. It regrets the failure of the delegation to provide comprehensive clarifications with respect to ensure compliance with the principle of non-refoulement in the draft Anti-Torture Bill. It also notes with concern that the State party has presented no comprehensive information on asylum applications received and granted or on cases in which return, extradition or expulsion were carried out during the reporting period and the guarantees and risk assessment afforded to such individuals. Furthermore, the Committee is concerned at the information received that several individuals were returned to the neighbouring countries, in contravention to the non-refoulement principle, without proper assurance of procedural safeguards (art. 3).

37. **The State party is encouraged to draft and enact the Anti-Torture Bill in line with the Convention standards. Under no circumstances should the State party expel, return or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. The State party should thoroughly consider the merits of each individual case and afford procedural guarantees. The State party should consider ratifying the 1951 Convention**

²⁶ CCPR/C/IRQ/CO/6, paras. 32-33.

²⁷ CCPR/C/IRQ/CO/6, paras. 8-9.

²⁸ CAT/C/IRQ/CO/1, para. 31.

relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees.

Gender-based violence

38. The Committee notes the State party's information on the draft bill on domestic violence pending before the Council of Representatives, which should remove some of the mitigating clauses that apply under current law to a husband's act of rape or violence against his wife, and the review of the national strategy to combat violence against women, among others. However, it acknowledges the concerns raised by the Human Rights Committee²⁹ that further steps are necessary to repeal or amend all provisions that discriminate or condone violence against women, including the mitigating and exculpatory provisions in the Criminal Code about rape and "honour" crimes, as recommended by the Committee in its previous recommendations.³⁰ The Committee is further concerned at the low number of cases brought to the courts vis-à-vis the high number of reported complaints of violence against women. In addition, it is concerned that female genital mutilation continues to be practiced in some parts and notes with interest the development of the plan to end such practice by the government of the Kurdistan region (arts. 2, 12, 13, 14 and 16).

39. The State party is urged to adopt the pending draft bill on domestic violence and the national strategy and repeal or amend the concerning legislative provisions of the Criminal Code in line with the Convention standards. It should strengthen its efforts to eliminate female genital mutilation. The State party should also ensure that all cases of gender-based violence, especially those that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims or their families receive redress, including adequate compensation, and have access to legal assistance, safe shelters and the necessary medical care and psychological support.

The Iraqi High Commission for Human Rights

40. The Committee is concerned at reports indicating the delay in selection of new IHCHR members and a reported lack of independence from political parties during the nomination process.³¹ It regrets that the State party has not provided information on the follow-up investigations, prosecutions and the outcome of cases referred by the IHCHR to prosecution services concerning torture allegations. Also of concern is the lack of protection and immunity of the IHCHR members from reprisals or other intimidation measures in the context of carrying out their official duties, as observed during the recent prosecution, which has by now been discontinued, as clarified by the delegation during the dialogue, of former Commissioner Dr. Ali Akram Al-Bayati for the comments he made while still in office regarding torture in Iraq (art. 2).

41. The State party should:

(a) Further strengthen the IHCHR, so that it can effectively carry out its mandate, and ensure that the appointment process of its members is in full accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);

(b) Follow-up on complaints of torture lodged with the IHCHR and undertake effective investigations and prosecutions of perpetrators and provide redress to victims;

(c) Ensure, as a matter of priority, that the members of the IHCHR are able to carry out their professional duties independently and are protected from any intimidation, harassment, improper interference or reprisals.

²⁹ CCPR/C/IRQ/CO/6, paras. 14-15.

³⁰ CAT/C/IRQ/CO/1, paras. 24 (e).

³¹ CCPR/C/IRQ/CO/6, paras. 6-7.

Training

42. The Committee notes the information provided by the State party's delegation on the training dedicated to human rights modules in military and police colleges, among others. However, it regrets the lack of information on specific training on the Convention, covering in particular the absolute prohibition of torture and ill-treatment, for judges, prosecutors, forensic doctors and medical personnel, as well as security forces (art. 10).

43. **The State party should:**

(a) **Include the provisions of the Convention in the curricula of mandatory courses for police, law enforcement and national security officers, military personnel, border guards, prison staff, judges, prosecutors and lawyers;**

(b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the Manual on Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).**

Follow-up procedure

44. **The Committee requests the State party to provide, by 13 May 2023, information on follow-up to the Committee's recommendations on criminalization of torture, fundamental legal safeguards, conflict-related sexual violence and death penalty (see paras. 9, 11 (a) and (c), 21 and 31 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

Other issues

45. **The Committee encourages the State party to consider making the declarations under articles 21 and 22 of the Convention.**

46. **The Committee invites the State party to consider acceding to the Rome Statute of the International Criminal Court, becoming party to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflict, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and ratifying the core United Nations human rights treaties to which it is not yet party.**

47. **The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.**

48. **The Committee requests the State party to submit its next periodic report, which will be its third, by 13 May 2026. To this end, the Committee invites the State party to accept, by 13 May 2023, the simplified reporting procedure consisting in the Committee's transmittal to the State party of a list of issues prior to the submission of the report. The State party's replies to that list of issues would then constitute its third periodic report under article 19 of the Convention.**
