



## Helpdesk Research Report

# Formal justice in Iraq

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### Question

*What research has been conducted on the provision of formal justice in Iraq and in particular how pre and post- trial detention is managed? Are there any notable examples of where the Government of Iraq has a particularly good or less than satisfactory record on fulfilling international treaty obligations on rights for instance?*

### Contents

1. Overview
2. Arrest and detention
3. Due process and fair trial standards
4. Torture
5. Death penalty
6. Conditions of prisons and detention facilities
7. Women and youth
8. References

### 1. Overview

Iraq is a state party to various international conventions relevant to the formal justice system, in particular the International Covenant on Civil and Political Rights (ICCPR), which contains important safeguards such as the right not to be subjected to arbitrary detention, the right to a fair trial, and the right not to be subjected to torture or ill treatment. Iraq also acceded to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 2011. Many of the principles, guarantees, rights and procedures contained in these Conventions are also provided for in the Iraqi Constitution and the Iraqi Criminal Procedure Code.

The criminal justice system in Iraq, however, remains weak. There are a wide range of reports (largely conducted by international NGOs, UN organisations, and state agencies) that reveal a consistent failure to meet international and domestic legal obligations. Areas of particular concern include:

**Arrest and detention:** Iraqi security forces continue to engage in arbitrary arrest and detention, arresting suspects without a judicial warrant and without informing them of the reasons for their arrest or detention (Amnesty International, 2013; Human Rights Council (HRC), 2008; US Department of State, 2014). Under Iraq's Anti-Terrorism Law (2005), all arrests can be conducted without a warrant.

Prolonged detention without trial is a systemic problem (Amnesty International, 2013; HRC, 2013, UN Assistance Mission for Iraq (UNAMI)/OHCHR, 2014a; US Department of State, 2014). This is due in part to lack of resources and capacity in the judicial system, in addition to political decisions and corruption. Prison authorities sometimes delayed the release of exonerated inmates pending receipt of bribes (Amnesty International, 2014; HRC, 2013; US Department of State, 2014). For offenses punishable by death, the Criminal Procedure Code permits authorities to legally detain a defendant for as long as needed to complete the judicial process. Lengthy pre-trial detention is particularly prevalent in the case of terrorism suspects.

**Due process and fair trial standards:** Judicial independence is undermined by routine intimidation of and violence committed against judges and their family members by sectarian, tribal, extremist and criminal elements (Christova, 2013; US Department of State, 2014). Terrorism suspects are often held *incommunicado* (without access to legal counsel or to family), particularly those in facilities controlled by the Ministries of Interior and Defence (Amnesty International, 2013; UNAMI/OHCHR, 2014a; UNAMI/OHCHR, 2014b). Indigent detainees (often female detainees) also have poor access to legal counsel in pre-trial detention (UNAMI/OHCHR, 2014; US Department of State). Trials are generally reported to be public, except in some national security cases (US Department of State, 2013).

Security officials throughout Iraq have continued to use coerced confessions as methods of investigation (US Department of State, 2014). While some judges have discredited confessions that may have been coerced (Warnock, 2010), various reporting agencies find that courts have frequently accepted them (Amnesty International, 2013; UNAMI/OHCHR, 2014a). They were often the sole or significant piece of evidence on which convictions were found (UNAMI/OHCHR, 2014a). In some cases, defendants have been sentenced to death based solely on these confessions (Amnesty International, 2013; UNAMI/OHCHR, 2014a).

**Torture:** Various reporting agencies have found evidence that torture and ill treatment of detainees occurs routinely during arrest and investigation (resulting in coerced confessions), in pre-trial detention, and after conviction, particularly by police and army (Amnesty International, 2014; HRC 2013; US Department of State 2014). Detainees who are held *incommunicado* for interrogation are particularly vulnerable (Amnesty International, 2013). There are also persistent reports of deaths in custody, apparently caused by torture or other ill-treatment, but little publicly available information about steps taken by Iraqi authorities to investigate these deaths (Amnesty International, 2013). A key factor undermining accountability is the fact that legal responsibility for arrest and detention in Iraq is split between different ministries (defence, interior, counter-terrorism and justice) and security forces (UNAMI/OHCHR, 2014a).

The US Department of State (2014) reports that progress has been made with government authorities initiating some investigations of security forces accused of committing human rights abuses, although investigation reports were not made public. The Ministry of Human Rights acknowledged in a recent report that in some cases investigations confirmed severe human rights abuses and a "systemic use of torture" (US Department of State, 2014).

**Death penalty:** Under Iraqi law, the death penalty applies to a large number of crimes. It continues to be widely used in Iraq. The vast majority of death sentences in recent years are believed to have been imposed

under the Anti-Terrorism Law. There are serious concerns about the implementation of the death penalty in a context in which administration of justice is weak with rampant violations of due process and fair trial standards (UNAMI/OHCHR, 2014b).

**Conditions of prisons and detention facilities:** There are various reports that conditions at some prison and detention facilities suffer from overcrowding, food shortages, and inadequate access to proper sanitation and medical care (Christova, 2013; UNAMI/OHCHR, 2014b; US Department of State 2014). The fact that facilities are run by different ministries, with lack of coordinated oversight, may contribute to the poor conditions. These conditions were more prevalent in Ministry of the Interior and Ministry of Defence facilities. UNAMI reports instead a marked improvement in many Justice Ministry detention facilities, bringing them in line with international standards (UNAMI/OHCHR, 2014a).

**Women and youth:** A Human Rights Watch (HRW) report (2014) on abuse of women in Iraq's criminal justice system finds that security forces carry out illegal arrests and other due process violations against women at every stage of the justice system. It also finds that women are subjected to threats of, or actual, sexual assault. The threat of rape can serve to coerce confessions (Amnesty International, 2013). Female detainees have often been detained in lieu of male family members suspected of terrorism (HRW, 2014; UNAMI/OHCHR, 2014a; UNAMI/OHCHR, 2014b).

In accordance with the law, the government held most juvenile pre-trial detainees and post-trial prisoners in Ministry of Labour and Social Affairs facilities. There were some reports, however, that authorities held some juveniles in Ministry of Justice prisons and Ministry of the Interior police stations and detention facilities. There were also reports of sexual abuse of juvenile prisoners in facilities in Ninewa province that housed adults (US Department of State, 2014). In the Kurdistan region, juveniles were occasionally held in the same cells as adults and rarely had access to education or vocational training (US Department of State, 2014).

## 2. Arrest and detention

### *The legal framework*

**International law:** The ICCPR prohibits arbitrary arrest and detention (article 9). It obliges Iraqi authorities to ensure that detained persons are informed of the reasons for their detention, and are brought promptly before a judge or other independent and impartial judicial officer. The ICCPR also requires that trials are conducted with undue delay (article 14(3)).

The International Convention for the Protection of all Persons from Enforced Disappearance (to which Iraq became a party in 2010) requires that "No one shall be held in secret detention" (article 17).

**Domestic law:** The Iraqi constitution provides basic legal safeguards against arbitrary arrest and detention: it prohibits "unlawful detention" and mandates that authorities submit preliminary documents to a competent judge within 24 hours of arrest, a period that may be extended once (article 19). The Iraqi Criminal Procedure Code requires that a person may be arrested only on the basis of a judicial warrant (other than in exceptional circumstances). For offenses punishable by death, the Criminal Procedure Code permits authorities to legally detain a defendant for as long as needed to complete the judicial process; pre-trial detention of six months can be renewed by the court.

### ***The situation on the ground***

***Arrests without warrant:*** Various reporting agencies find that Iraqi security forces continue to engage in arbitrary arrest and detention – arresting suspects without a judicial warrant and without informing them of the reasons for their arrest or detention and/or of the actual charges (Amnesty International, 2013; HRC, 2008; US Department of State, 2014). The Ministry of Human Rights alleged that the “majority of arrests in Iraq were carried out without a legal warrant” (cited in US Department of State, 2014). Security forces reportedly arrested civilians without warrants based on religious sect or political party. In addition, authorities often failed to inform family members of the arrest or location of detention, resulting in incommunicado detention (US Department of State, 2014). Under Iraq’s Anti-Terrorism Law (2005), all arrests can be conducted without warrant. They are usually issued by the judge post arrest (UNAMI/OHCHR, 2014a).

***Prolonged pre-trial detention:*** Most individuals in Interior and Defense Ministry facilities (outside the authority and responsibility of the Ministry of Justice) are reportedly pre-trial detainees (US Department of State, 2014). Prolonged detention without trial (for weeks, months and in some cases years), in these facilities in particular, is a systemic problem in Iraq (Amnesty International, 2013; HRC, 2013, UNAMI/OHCHR, 2014a; US Department of State, 2014). Lengthy detention is due in part to a large number of detainees, lack of resources and capacity in the judicial system, lack of information sharing, reluctance to utilise bail provisions where appropriate, bribery and corruption. There are reports that prison authorities sometimes delayed the release of exonerated inmates pending receipt of bribes (Amnesty International, 2014; HRC, 2013; US Department of State, 2014). Lengthy pre-trial detention is particularly prevalent in the case of persons suspected of crimes under the Anti-Terrorism Law.

## **3. Due process and fair trial standards**

### ***The legal framework***

***International law:*** Under the ICCPR, the right to due process and a fair trial includes the presumption of innocence, the right to legal counsel and to a fair hearing by a competent, independent and impartial tribunal (article 14). The United Nations Basic Principles on the Role of Lawyers requires giving defendants prompt access to a lawyer no later than 48 hours after arrest.

The ICCPR further requires that persons charged with a criminal offence are not compelled to testify against themselves or to confess guilt (article 14). The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (to which Iraq is a state party), also obliges Iraqi officials to ensure that any statements gained through torture cannot be relied on as evidence in judicial proceedings (article 15).

***Domestic law:*** The presumption of innocence; and the right to legal representation, to a public trial and to an independent judiciary also constitute basic principles of fair trial standards, guaranteed in the Iraqi Constitution (article 19). Article 123 of the Criminal Procedure Law no. 23 of 1971 ensures the right of accused persons to have legal counsel present during investigation and questioning.

The Iraqi Constitution (article 37) and Criminal Procedure Code (article 218) prohibits the use of coercion to extract a confession. The Constitution further prohibits reliance on such coerced confessions. However, the Criminal Procedure Code provides that the court has absolute authority in evaluating whether the defendant’s confession is admissible, despite repudiation by the defendant (article 217).

### ***The situation on the ground***

***Independent judiciary:*** Iraq's security situation and political history have rendered the judiciary weak and dependent on other parts of the government. Judges and their family members are routinely subject to intimidation and violence by sectarian, tribal, extremist and criminal elements, which has undermined judicial independence (US Department of State, 2014). Despite declining overall numbers of assaults, abduction operations and assassination attempts, the security of judges remains an issue (Christova, 2013). In addition, a number of judges reported to UNAMI that they felt political, social or other forms of pressure to convict persons charged with capital and terrorist offences, again undermining judicial independence (UNAMI/OHCHR, 2014a).

***Access to counsel and trial procedures:*** Judges have attempted to enforce the right to a fair trial; however, access to counsel is a problem. In the case of detention centres under the Ministry of Justice, UNAMI finds that visits by lawyers and family members to detainees are unhindered. However, detainees held as terrorism suspects, particularly those in facilities controlled by the Ministries of Interior and Defence, are often held incommunicado, without access to legal counsel (during the entire investigation process and in some cases not until the trial) or to family (Amnesty International, 2013; UNAMI/OHCHR, 2014a; UNAMI/OHCHR, 2014b). This has been acknowledged by the Ministry of Human Rights (Amnesty International, 2013).

In the case of indigent detainees (often female detainees), attorneys appointed to represent them reported that access to their clients was frequently poor, resulting in inadequate attorney-client consultation in pre-trial detention. Often, the first meeting with court appointed lawyers occurred at the trial (UNAMI/OHCHR, 2014a; US Department of State). Government-set fees for lawyers were considered inadequate, which also resulted in reported lack of motivation by court-appointed legal counsel (UNAMI/OHCHR, 2014a).

Officials at the Ministry of Human Rights report that the need for public defenders and judges far exceeded supply, resulting in trial delays (US Department of State, 2013). Shortage of judges in many areas also meant that cases were often processed rapidly, with little time for detailed analysis of evidence by the defence counsel or by judges presiding over the cases (UNAMI/OHCHR, 2014a).

Trials were generally reported to be public, except in some national security cases (US Department of State, 2013).

***Confessions (see also following section on Torture):*** Although there are provisions for the collection and consideration of "hard" evidence, confessions have long been considered to be key evidence in Iraqi criminal procedure (Amnesty International 2013; Warnock, 2010).

Security officials throughout Iraq have continued to use abusive and coerced confessions as methods of investigation (US Department of State, 2014). According to some defence lawyers, this problem stems from a general lack of capacity of police and law enforcement officials to conduct effective investigations and to uncover impartial, reliable material evidence. As such, the police routinely rely on confessions, even if obtained through coercion (UNAMI/OHCHR, 2014a).

There is some anecdotal evidence of judges discrediting confessions that may have been coerced, potentially due in part to the legal provisions prohibiting reliance on such confessions (Warnock, 2010). However, various reporting agencies find that courts have frequently accepted self-incriminating statements and confessions obtained in pre-trial detention, despite defendants repudiating them at trial and claiming they were obtained through coercion (Amnesty International, 2013; UNAMI/OHCHR, 2014a). In almost half of the criminal trials monitored by UNAMI, the defendants alleged that they had been

subjected to torture or ill-treatment to extract confessions, but the courts still admitted the confessions into evidence. It is extremely difficult for defendants to prove that they were coerced into confession. For example, medical examinations for those subjected to physical torture, if carried out at all, are usually conducted months later, after most physical evidence of torture is likely to have disappeared (Amnesty International, 2014). Such repudiated confessions were often the sole or significant piece of evidence on which convictions were found (UNAMI/OHCHR, 2014a). In some cases, defendants have been convicted on capital charges and sentenced to death based solely on these confessions (Amnesty International, 2013; UNAMI/OHCHR, 2014a).

The executive branch of government has allowed the confessions of terrorism suspects to be broadcast on television, even before the defendants come to trial – and have made public statements about their guilt to capital charges. This greatly undermines the presumption of innocence (Amnesty International, 2013). Despite agreeing to cease broadcasting of such pre-trial confessions, following criticism by the UN, the Iraqi Bar Association and other national and international organisations, government authorities have since continued the practice (Amnesty International, 2013).

## 4. Torture

### *The legal framework*

**International law:** Iraq ratified the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in July 2011. The Convention obliges Iraq to ensure that all acts of torture are offences under its criminal law (article 4). As noted above, CAT prohibits reliance on statements or confessions obtained through torture as evidence. All allegations of torture must also be promptly and impartially investigated by competent authorities (article 12).

Article 7 of ICCPR also prohibits torture. Article 2(3) of the ICCPR obliges state parties to ensure an “effective remedy” for persons whose Covenant rights have been violated. The Human Rights Committee states that this translates into a general obligation to promptly investigate allegations of violations.

**National law:** Iraq’s Constitution prohibits all forms of torture and inhumane treat and requires that confessions obtained through torture cannot be relied on (article 37). The Criminal Procedure Code has similar provisions, in addition to providing for criminal liability for torture or other instances of abuse in custody. However, the Code also contains a provision that where the alleged offenses took place in the course of or arising from official duty, the “responsible minister” must permit referral of the accused official for trial (article 136(b)).

### *The situation on the ground*

Various reporting agencies have found evidence that torture and ill treatment of detainees occurs routinely in Iraq and in the Kurdistan Region of Iraq, during arrest and investigation, in pre-trial detention, and after conviction, particularly by police and army (Amnesty International, 2014; HRC 2013; US Department of State 2014). As discussed above, it is often used to extract confessions. By routinely allowing confessions allegedly extracted under torture as evidence, the judiciary helps to perpetuate the persistence of torture and ill treatment of detainees (Amnesty International, 2013).

There are persistent reports of deaths in custody, apparently caused by torture or other ill-treatment. According to official Ministry of Human Rights records, there were 269 cases of death in custody between

2010 and 2012, including 32 in which “suspicion of torture” was a possible cause of death (Amnesty International, 2014). There is little publicly available information about any steps taken by Iraqi authorities to investigate these deaths. Although some reports by the Ministry of Human Rights refer to the opening of investigations, there is no information about findings or consequent actions (Amnesty International, 2013).

Detainees who are held incommunicado for interrogation are particularly vulnerable to torture and other ill-treatment, particularly when the detention facilities in which they are kept are ones controlled by either the Ministry of Interior the Ministry of Defence (Amnesty International, 2013). UNAMI reports that almost all detainees held at Ministry of Justice facilities alleged that they had suffered abuse and mistreatment, and in some cases torture, while held during investigation in Ministry of the Interior-run facilities. Some claimed that the abuse took place in the presence of prosecutors and investigative judges. Once a confession was obtained, almost all of the detainees stated that the abuse stopped and they were transferred to Ministry of Justice facilities (UNAMI/OHCHR, 2014a)

While Iraqi authorities have acknowledged that torture and other ill-treatment continue to occur, they have suggested that they are isolated occurrences and that there is no systemic problem (Amnesty International, 2013).

**Lack of accountability:** Article 136(b) of the Criminal Procedure Code, highlighted above, which requires the “responsible minister” to permit referral of the accused official for trial, has continued to be used to block prosecutions (Human Rights Watch, 2011). There are generally no independent and impartial investigations into allegations of torture and other ill-treatment, allowing security forces to act with impunity (Amnesty International, 2014).

Another factor undermining accountability is the fact that legal responsibility for arrest and detention in Iraq is split between different ministries (defence, interior, counter-terrorism, justice) and security forces (UNAMI/OHCHR, 2014a). Lack of transparency hampers accountability; the ministries have not made public statistics of prisoners, nor disaggregated their locations by charge, partly due to the inadequate record-keeping. Further, none of the ministries could provide information regarding any official who had been prosecuted and convicted of torturing a detainee (HRW, 2014).

**Progress:** The US Department of State (2014) reports that progress has been made with government authorities initiating some investigations of security forces accused of committing human rights abuses, although investigation reports were not made public. The Ministry of Human Rights has launched investigations of allegations of torture inside prisons and detention centres (313 investigations as reported in May) and noted in a recent report that in some cases investigations by the “prisons team” confirmed severe human rights abuses and a “systemic use of torture”. The ministry’s report demonstrated improved government capacity to document credible allegations of systemic torture, deaths in prisons, forced confessions and arbitrary detention. There was no evidence as of yet, however, of any judicial action against any official in response to the report findings.

## 5. Death penalty

### *The legal framework*

**International law:** Several international and regional human rights instruments prohibit the use capital punishment or encourage its abolition and/or strictly limit its use, in particular the Second Protocol to the ICCPR and Article 3 of the Universal Declaration of Human Rights guaranteeing the right to life (article 3). The ICCPR obliges state parties to ensure that the imposition of the death penalty is not in contravention of other provisions of the Covenant (e.g. due process and fair trial standards) (article 6).

Given the generally lengthy legal processes and delays between receiving a death sentence and execution – and, in some cases the methods of implementing the sentence, some commentators consider that the use of the death penalty constitutes cruel, inhuman or degrading treatment or punishment, in violation of the ICCPR (article 7) and the CAT.

**National law:** Under Iraqi law, the death penalty applies a large number of crimes, ranging from crimes against the internal and external security and State institutions, acts of terrorism to kidnapping, rape, drug trafficking where death results, prostitution, and “aggravated” murder. The Anti-Terrorism Law of 2005 mandatorily applies the death penalty to those convicted of committing or threatening to commit acts of terrorism, including those who incite, plan, aid or abet (before or after the fact), or finance such acts either as principals or as accomplices. The Law contains a broad definition of terrorism (UNAMI/OHCHR, 2014a).

### *The situation on the ground*

The death penalty continues to be widely used in Iraq. Executions have been carried out in increasingly large numbers each year since 2005 (except for in 2008 when no official executions were implemented) (UNAMI/OHCHR, 2014a). Since Iraq’s first Universal Periodic Review in 2010, at least 367 detainees have been executed, with the highest number of known executions taking place in 2013 (Amnesty International, 2014).

The vast majority of death sentences in recent years are believed to have been imposed under the 2005 Anti-Terrorism Law. The Government has stated that the death penalty is required because of the “extraordinary security situation” – and serves as a deterrent to terrorism and provides justice of victims of armed violence and terrorism. During the 23rd session of the UN Human Rights Council in 2013, Iraq stated that it would look at abolishing the death penalty once it has dealt with terrorism (Amnesty International, 2014).

There are concerns that the Anti-Terrorism Law applies a broad definition of terrorism (Amnesty International, 2014). In addition, there are serious concerns about the implementation of the death penalty in a context in which administration of justice is weak and there are various reports of failures to respect due process and adhere to fair trial standards (UNAMI/OHCHR, 2014b). In particular, many defendants have been sentenced to death based largely on their pre-trial confessions, despite defendants’ allegations that these confessions were obtained under coercion (see sub-section on Confessions in part 3).

Although Iraqi law provides for an automatic appeals process in death penalty cases, death sentences are rarely overturned on appeal; and clemency is rarely granted (UNAMI/OHCHR, 2014a).



## 6. Conditions of prisons and detention facilities

There are various reports that conditions at some prison and detention facilities are harsh, with overcrowding, food shortages, and inadequate access to proper sanitation and medical care (Christova, 2013; UNAMI/OHCHR, 2014b; US Department of State 2014). This was particularly the case in detention facilities of the Ministry of the Interior and the Ministry of Defence. Facilities operated by the Ministry of Justice are reported to provide better living conditions and better treatment of detainees (Christova, 2013).

UNAMI considers that the poor conditions of prisons and detention centres are due to the fact that they are run by different ministries and security agencies with little coordinated oversight and accountability. Despite assurances by the government to provide more uniform oversight, this has not materialised (UNAMI/OHCHR, 2014a). Recordkeeping is also segmented, making it difficult to account for all of a facility's detainees in situations where a facility held individuals detained by several entities (US Department of State, 2014).

**Progress:** UNAMI's report on conditions in the second half of 2013 finds that there have been continuing improvements in the general infrastructure and services provided in some detention facilities and prisons (UNAMI/OHCHR, 2014b). UNAMI prison inspectors and monitors have noted a marked improvement in many Justice Ministry detention facilities (including refurbishment, reconstruction or construction of new facilities), bringing them in line with international standards (ensuring separation of pre-trial detainees and convicted prisoners; categorising detention facilities according to the severity of alleged crimes; expanding education and vocational training opportunities for inmates) (UNAMI/OHCHR, 2014a). New, improved facilities are also being built in the Kurdistan region (UNAMI/OHCHR, 2014a). In addition, the justice, defence, and interior, and the counterterrorism service ministries reported that employees at detention and prison facilities received human rights training provided by their respective ministry. The Ministry of Human Rights also provided human rights training to prison guards and security staff (US Department of State, 2014).

## 7. Women and youth

### Women

A Human Rights Watch report (2014) on abuse of women in Iraq's criminal justice system finds that security forces carry out illegal arrests and other due process violations against women at every stage of the justice system (during arrest, interrogation, trial, and imprisonment), including threats and beatings. It also finds that women are subjected to threats of, or actual, sexual assault (sometimes in front of family members). Some detainees reported inadequate protection for female prisoners from attacks by male prison guards (HRW, 2014). Despite outcry over abuse and rape of women in pre-trial detention, the government has failed to investigate such cases or hold those responsible to account (HRW, 2013).

Women held in incommunicado detention are particularly vulnerable to rape or sexual assault, as any allegation of rape or assault will be almost impossible to prove. The threat of rape can serve to coerce confessions (Amnesty International, 2013). Many women reported to Human Rights Watch that they were forced to sign or fingerprint confessions that they were not allowed to or unable to read. High rates of illiteracy among women render them particularly vulnerable (HRW, 2014). Similar to many Iraqi men, women are in many cases subject to arbitrary arrest and detention (CEDAW, 2014; HRW, 2014). They frequently have little or no access to adequate counsel, often due to limited financial resources; and many

experience prolonged detention (CEDAW, 2014; HRW, 2014). In some cases, where women had their charges dropped or had already served their sentences, they were forced to pay bribes for their release. Some women remained detained despite this payment (HRW, 2014). In addition to these violations, concluding observations of the CEDAW (2014) report also expressed concern that women convicted of adultery or prostitution are serving sentences ranging from 15 years to life; and that there are inadequate health care facilities and services for women detainees.

**Terrorism:** Many female detainees interviewed by UNAMI alleged that they have been detained in lieu of male family members suspected of terrorism or as collective punishment for the alleged acts of male family members; or had been arrested on charges of aiding and abetting or withholding information related to crimes committed by male family members under the Anti-Terrorism Law (HRW, 2014; UNAMI/OHCHR, 2014a; UNAMI/OHCHR, 2014b). Many of these female detainees and prisoners also claimed to have been subjected to torture, violence and threats while in custody at Ministry of Interior facilities, prior to being transferred to Ministry of Justice facilities (UNAMI/OHCHR, 2014a). Defence lawyers noted that judges ignored visible signs of physical abuse on women (HRW, 2014).

## Youth

The Convention on the Rights of the Child (CRC) (to which Iraq acceded in 1994) requires that the arrest, detention or imprisonment of a child should only be used as a last resort and for the shortest period of time possible. Both the ICCPR (article 10) and the CRC (article 37) require that children accused of criminal offenses be detained separately.

The total juvenile population in holding facilities and detention centres (apart from in the Kurdistan region) at the end of 2013 was reported to be approximately 1,400 (US Department of State, 2014). In accordance with the law, the government held most juvenile pre-trial detainees and post-trial prisoners in Ministry of Labour and Social Affairs facilities. There were some reports, however, that authorities held some juveniles in Ministry of Justice prisons and Ministry of the Interior police stations and detention facilities. There were also reports of sexual abuse of juvenile prisoners in facilities in Ninewa province that also housed adults (US Department of State, 2014). According to the Independent Human Rights Commission of Kurdistan, the total juvenile population in detention in the Kurdistan region of Iraq is 259 (64 pre-trial detainees and 195 post-trial detainees). Juveniles were occasionally held in the same cells as adults and rarely had access to education or vocational training (US Department of State, 2014).

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