

The Iraqi Commission for Human Rights

اللجنة العراقية لحقوق الإنسان

Reviewing the Republic of Iraq

Report to the Human Rights Council

The 20th session of the Universal Periodic Review

United Nations-Geneva-October 2014

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Summary

This report highlights several key issues as well as developments since the previous review and shall examine the human rights compatibility of anti-terrorism measures in Iraq. The number and severity of human rights violations under the pretext of combating terrorism has increased, which, instead of providing peace and security, has resulted in an increasingly unstable situation. The violations include **disproportional violence against peaceful protesters, mass campaigns of arbitrary arrests, retrieval of confessions under torture, lack of fair trials, and political recourse to capital punishment.**

The anti-terror law passed in 2005, approves the death penalty for a multitude of offenses, most of which cannot be considered as “most serious crimes”. It is a matter of great concern that these provisions are frequently applied on a sectarian base and used as a weapon to stifle public criticism. At present thousands of political opponents to the current Prime Minister (Nouri al-Maliki) are held in **arbitrary detention**, many of them in secret centers where they undergo **brutal torture, beatings and threats** in order to **extract confessions**, which are later used as legal “evidence” for harsh sentences, including to death.

Forced confessions are broadcast regularly on TV, and young men are paraded out as "terrorists". Even **parliamentarians are not immune** from imprisonment on dubious charges. The **summary executions and extrajudicial** killings have made Iraq the second most deadly country in the world for journalists.

The peaceful nature of **Iraqi protests (2010-2013)** has equally been shattered by Maliki's violence. Since December 2013 governmental attacks against Iraqis heavily populated areas has escalated by **shelling**. Iraqi air force has mounted daily bomb attacks, cutting off electricity and water supplies and destroying several bridges in an effort to prevent food and water from reaching the besieged inhabitants. More than 400,000 people have been made **homeless**.

Al Maliki's official portrayal of terrorists brought him immediate international support, yet all military support of should be halted since that weapons are used against civilians.

Report to the 20th session of the
Human Rights Council's Working Group on Universal Periodic Review

October-November 2014

IRAQ

On 16 February 2010, at its 13th meeting, the Working Group on the Universal Periodic Review considered the first Universal Periodic review of Iraq. This stakeholder information highlights several key issues reflected in the report as well as developments since the previous review and shall examine the human rights compatibility of anti-terrorism measures as reflected in the report of the Working Group on the Universal Periodic Review of Iraq A/HRC/14/14.

Combating terrorism:

The fight against terrorism is mentioned as one of the key issues in the Report of the Working Group on the Universal Periodic Review of Iraq A/HRC/14/14. Iraq, the Country under review, insisted that “because of the exceptional circumstances in Iraq and the prevalence of terrorist crimes targeting the right to life, the death penalty had been maintained as a means of deterrence and to provide justice to the families of victims.” Iraq further claimed that terrorist groups have sought to undermine the rule of law by instilling chaos, creating a feeling of insecurity, destroying infrastructure and targeting scientists”.

In this sense recommendations and questions that arose during the interactive dialogue such as from Kuwait and Palestine encouraged Iraq to “Continue its efforts to combat terrorism” in order to ensure security, all the while “exert every possible effort to protect and promote human rights, in spite of all existing obstacles and threats, keeping away from external and regional interference that contributes to undermining the security and stability in Iraq.” Iraq also accepted recommendations such as made by Korea to “incorporate human rights based approach in its efforts to achieve sustainable security and development, particularly in anti-terrorism-operations.”

Unfortunately in 2014 reality could not be further away from the implementation. The number and severity of human rights violations under the pretext of combating terrorism has increased, which, instead of providing peace and security, has resulted in an increasingly unstable situation.

Human rights violations while combating terrorism

The human rights violations perpetrated in Iraq under the guise of anti-terrorism include disproportional violence against peaceful protesters, mass campaigns of arbitrary arrests, retrieval of confessions under torture, lack of fair trials, and political recourse to capital punishment. A short look at the Iraqi definition of terrorism and terrorist crimes

further makes clear that basically any act can be fit into the description, which therefore is frequently used to silence unwanted voices.

Anti-terror law No 13 of 2005

The anti-terror law passed in 2005, approves the death penalty for a multitude of offenses, most of which cannot be considered as “most serious crimes”. Under Iraqi law, a person can be sentenced to death for some 48 crimes, including anyone who commits, as a main perpetrator or a participant, a terrorist act, along with anyone who incites, plans, finances or assists terrorists to commit such a crime or anyone who intentionally covers up any terrorist act or harbors a terrorist with the purpose of concealment. The same law offers amnesty and anonymity to secret informers who report alleged terrorist activities.

Terrorism charges used against political opponents

It is a matter of great concern that these provisions are frequently applied on a sectarian base and used as a weapon to stifle public criticism, including parliament members, journalists, doctors and intellectuals. Such a strategy unavoidably leads to a miscarriage of justice. All Iraqis who are critical of the government thus risk being labeled as terrorists.

At present thousands of political opponents to the current Prime Minister are held in detention, many of them in secret centres where they undergo brutal torture, beatings and threats in order to extract confessions, which are later used as legal “evidence” for harsh sentences, including to death. Any sentences handed down under such conditions however must be considered arbitrary.

Peaceful protests

The peaceful nature of Iraqi protests that have been going on for one year has been shattered by Maliki's violence. It started with the al-Hawija massacre in April 2013 that killed 60 and wounded 300 protesters. At the end of December, Iraqi forces violently attacked a protest camp on the outskirts of Ramadi, killing 17 people. Human Rights Watch noted how the government's raid "seemed intended more to provoke violence than prevent it." This was the fifth major incident during 2013 in which security forces fired upon and killed peaceful protesters.

As the violence raged throughout 2013, the government tried a crackdown. Forced confessions are broadcast regularly on TV, and young men are paraded out as "terrorists". While this may well act as a deterrent for some, it acts as a recruiting tool for others. Security is key to a peaceful life. Iraq doesn't have that. Iraqis have lost faith in politicians who they see as ineffectual and self-serving.

Although Art.38 para.3 of the Iraqi constitution ensures the right to Freedom of Assembly and Demonstrations, the Ministry of Interior has to approve every request for demonstration. The Ministry of Interior maintains a strong stand on the protection of security and combat terrorism. It has been repeatedly the case that protests have been postponed or cancelled on grounds of ‘terrorist threats’ and ‘protection of national security’. People are urged to support the state in the fight of terrorism rather than demonstrate. Under Article 20 (1) of the Universal Declaration of Human Rights, everyone

has the right to freedom of association and peaceful assembly. This right has been increasingly conditioned by the Iraqi government in the name of anti-terrorism.

Arbitrary arrests

A mass arrest operation launched in August 2013 in course of which the number of arrests reached 1,500. Many innocents were arrested arbitrarily. Dozens were left killed. Over the past years, international bodies and NGOs, including the United Nations Assistance Mission for Iraq (UNAMI) and the High Commissioner for Human Rights herself thus repeatedly expressed serious concerns about the Iraqi criminal justice system, in which trial proceedings fall short of international standards and abuses of due process, lack of access to legal defense mechanisms up to death sentences based on confessions enforced under torture render the system deeply flawed and fraudulent.

A recent Amnesty International report noted how during the past year thousands of Iraqis were detained without credible charges, hundreds were sentenced to death or long prison terms after unfair trials, and "torture and other ill-treatment of detainees remained rife and were committed with impunity." Even parliamentarians are not immune from imprisonment on dubious charges, and extrajudicial killings have made Iraq the second most deadly country in the world for journalists.

Escalation in the province of al-Anbar

Since 22 December 2013 an operation led by Iraqi government forces is under way in the Anbar province, allegedly supposed to drive hardline fighters out of the area. These forces target residential areas with heavy artillery, by tanks and by air and even undertook an aerial assault on the east of Fallujah. Other clashes driven by the Iraqi army left many dead.

Since December 2013 violence against Iraqis escalated by shelling cities, all over Iraq. The humanitarian situation in Fallujah is dire. The sectarian prime minister of Iraq, Nouri al-Maliki has surrounded the city with thousands of troops, effectively sealing it off. The Iraqi air force has mounted daily bomb attacks, cutting off electricity and water supplies and destroying several bridges in an effort to prevent food and water from reaching the besieged inhabitants. In Fallujah the General Hospital was bombed, killing nearly all of the doctors and nurses and many of the patients and forcing its closure. More than 300,000 people have been made homeless.

Al Maliki's official portrayal of terrorists brought him the immediate support from the USA as well as from Iran. Also, Russia announced its support. Other voices however, such as the senior EU lawmaker Struan Stevenson, a member of the European parliament, warned in an open letter published on 7 January 2014 that "Iraq is plummeting rapidly towards civil war and genocide". In a second letter published on 20 January 2014 Stevenson's further warned that claims by al-Maliki were "utter nonsense". Still, he had "convinced his American allies that he is fighting a war on terror and they are pouring in rockets, drones and other military hardware which Maliki is using to bomb and kill civilian targets".

United Nations Secretary General, Ban Ki Moon and the United Nations Assistance Mission to Iraq (UNAMI) continue to plead with Maliki to provide humanitarian aid to the city and to enter into negotiations that can bring an end to violence in the predominantly Sunni, Al Anbar Province. The sharp response from the Prime minister was there would be

"no negotiation with terrorists." In a single sentence he has labeled all of the residents of Iraq's largest province as "terrorists" in order to justify his genocidal campaign.

Recommendations

- The government of Iraq must prevent further escalation and stop the unlawful killings of civilians
- Iraq should ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights
- Iraq should immediately halt all executions unless a fair trial can be guaranteed
- Iraq should be urged to amend the anti-terror law No. 13 of 2005
- Iraq should genuinely facilitate visits of UN special Procedures
- Iraq must end restrictions of aid deliveries into al-Anbar province
- All supply of military support of al-Maliki's forces with weapons and technical equipment (e.g. drones) should be halted because they will be used against civilians under a pretext of fighting terrorism.
- An independent international committee should investigate the human rights violations committed under the pretext of combating terrorism in Iraq.
