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Coordinator for  
International  
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The Kurdistan  
Regional  
Government High  
Committee *to*  
Evaluate and  
Respond to  
International

***KRG Response to Allegations of Heartland Alliance Report***

**2020 Updated**

The KRG High Committee for Follow-up on International Reports has prepared this report in response to the Heartland Alliance Torture Report on human rights practices in the region. The High Committee has committed to follow up on the allegations made; herein we provide a thorough and comprehensive legal and practical response on the issues of human rights of detainees and prisoners in the custody of the Asayish, outlining the due process of detainees, the detention conditions and the monitoring of the conduct of Asayish personnel.

The KRG have taken many constructive steps towards advancing human rights within the region in general. The Kurdistan Regional Government (KRG) has worked in close collaborations with the U.N. and partnering agencies to address fair treatment of all people in the region. The KRG have continuously shown willingness and initiative to take further steps in the enhancement of its legal and political institutions, one of which is the implementation of the U.N. Convention Against Torture (CAT) in detention centers and prisons.

The Kurdistan Region's principles on human rights have been autonomous to that of Iraq's as of 1992 following the establishment of the Kurdistan National Assembly. The first act issued requested that the ministries of the new council "examine the laws, decrees and regulations and directives issued by the central authorities [Baghdad] to identify what is not compatible with the welfare of the people of Kurdistan and to submit these to the National Assembly for a decision on the legitimacy or otherwise of their enforceability in the [Kurdistan] Region". The Iraqi Code of Criminal Procedure (CCP) and Penal Code were kept and became part of the criminal legislation applicable in the Kurdistan region. Furthermore, it is worth noting that Iraq and therefore Kurdistan have legal obligations under the international human rights treaty law and customary law, which includes the International Covenant on Civil and Political Rights (ICCPR), this protects an individual's basic rights including the right to protection against arbitrary arrest.

As of 2003, the Kurdish National Assembly addressed the shortcomings of these laws and incorporated amendments to the Iraqi criminal code (CCP) into the regional legislation. These amendments include but are not restricted to; the prohibition of use of torture, forced confessions, the rights of a detainee to seek legal counsel and the right to be informed promptly of the charges made against a detainee. With the passing of such legislations, among other concrete attempts to improve the human rights situation in Kurdistan, the KRG have shown great commitment to comply with the international standards to address and follow up on human rights issues.

## **DETENTION FACILITIES IN KURDISTAN**

The Kurdistan Region's major governorates of Duhok, Erbil and Sulaymaniyah have Asayish controlled adult detention centers equipped with the necessary facilities to accommodate the wellbeing and social needs of the prisoners.

The adult rehabilitation centers in Duhok and Sulaymaniyah are well equipped newly built dedicated centers that meet the international standards with all the necessary health and social care facilities for the detainees.

a dedicated building with new design and to new standards that contains all the facilities needed.

In Erbil building is in progress, lack of facilities/recourses but these will be resolves and it will be completed soon.

Prison under Asaesh custody to the new building, pre-trial.

The are planning to improve the social, health and all other general facilities in the custody prison.

Due to lack of funds, procedures to improve the state of the prisons has hindered progress in this area.

### **Overcrowding in Prisons and Holding Facilities**

A new build prison has been made in Erbil, (125m x 91m) that constitutes 2 buildings. The first floor is for administration of the prison, the second floor contains 24 rooms, for health and psychosocial services and facilities. The second building contains 16 prisoners halls on the first floor, each hall contains bath rooms and special needs services, AC and central heating as well as CCTV. The second floor contains a kitchen and the staff and officer lounge. The prison has a garden and a special visiting hall in between both buildings.

### **Torture:**

Ministry of labor and social affairs prohibits the use of torture and investigates any alleged cases of torture and abuse within all prisons. In the case of arrest and transfer, those convicted are then separated by gender and age.

Article I, 2008, the Ministry of labor and social affairs law number 7, article 27 and 28 states that lenient punishments to (teach someone a lesson) for detainees who abide by the rules and regulations of the prison. Detainee good behavior is graded numerically and in the event of bad behavior, they lose scores.

The punishments are as follows;

- Withdrawal from sports activities for no more than 3 months and lose up to 7 points in their behavior scoring,
- Not being allowed to have visitors again, for no more than 3 months and loss of 10 points in their good behavior score.
- Banning from contact/communication with family, etc by post.
- Isolation room and cut down on daily meals.

The prison warden has the authority to amend any of the above punishments but has to justify their decision based on a report from the officers on the behavior or a counselor for the psychological health status of the detainee. This therefore shows that the punishments are more psychological rather than physical torture. Similarly, if an officer is thought to be mistreating prisoners they will be held accountable and action will be taken to follow up.

Ministry of Interior, apart from his other responsibilities they ensure that they protect the people and ensure that the law is abided.

If the department of decision-making, the officers and judges don't have a legal binding order on a person, they cannot be arrested or imprisoned.

According to the supernal court of Iraq, No: 111 (1969), after the order of arrest from the court the accused will be detained by the court and all the legal actions will be taken according to the Law number (23), 1971. The Ministry of Interior does not have the authority to arrest or release anyone without a court order.

According to Law (19), article 12/1 Iraqi constitution law, internal arrest is forbidden and the power of arresting is only that of the judge.

Furthermore, all the arrest and transfer stations belong to the ministry of interior, apart from the adult rehab prisons and the convicted people from the ministry of labor and social affairs.

In Asaesh, the detainees will be held for 15 days according to the law, until the investigations have been finalized, however in the event that further evidence is needed the investigation period maybe extended on order from the judge.

After the detainee receives their conviction from the court, they will be put in the custody of the ministry of interior in order to receive their due punishment according to the crime committed. However, there is no torture or physical punishment, as it goes against the Iraqi constitution, Article 333 of the penal code.

If the detainee during the investigations received any physical punishment or torture they have the right to complain against the officer, according to the Iraqi federal constitution, which gives the right to the court to do so under Article 19/3.

Accusations of torture cannot be revealed unless the accusation goes through formal hearing first and a conviction is given. This is in Iraqi penal code, Article 1, No: 23 (1971). However if there is a witness to the accusation the court will take a formal statement and will investigate further and provide the report to the jury. Medical investigation reports on the alleged torture will also be required for the investigation process.

Any member of staff or officers from the Ministry of Interior overlooks allegations of mistreatment and torture, legal action will be taken against them. Therefore, there are investigation committees that have been established by the Ministry of Interior and the KRG High Committee to Follow up and Respond, to look into such allegations and follow up accordingly.

### **Cases to Date:**

1. The Ministry of Interior requested the committee to follow up on allegations made by 7 convicts who have claimed to endure torture and mistreatment in prison (legal order 1368, 8<sup>th</sup> July 2014). The committee comprised of representatives from the Erbil Governorate Asaesh (No:1659, 20<sup>th</sup> August 2014 – investigations ongoing).

2. The Ministry of Interior (No: 13689, 8<sup>th</sup> July 2014), has requested that the Asaesh to set up a court of investigation to follow up on allegations made against a few police department staff of mistreating detainees.

In the Asaesh, the detainee personal information is kept confidential. Apart from the judge and the lawyer, no individual has access to detainee information.

To date, the organisations that have visited the detainees are the following; Red Cross International, UNAMI, UN, KRG Human Rights Committee.

### **The conditions of the holding place for detainees:**

In Asaesh, they have representatives of the judges and investigation officer in order to collect statements and evidence about the allegation from the detainee. The investigative judge sends a representative from the court of investigation to the Asaesh holding facilities to carry out the investigation along with the Asaesh.

In regards to the 255 detainees that have been mentioned to be mistreated by the Asaesh, you need to specify in which prison they have been mistreated, in which board of Asaesh.

### **Asaesh Bribery:**

Any staff member of the KRG, including the Asaesh, who takes bribery, will be prosecuted according to the laws of the military court (penal code)?

### **Asaesh Arrest Policy and Procedure:**

In the Asaesh of Erbil and Duhok, the accused is initially arrested by handcuffs however no other restraining techniques are used. If any officer of the Asaesh breaks this regulation will be held accountable. So far, no cases have been reported against the arrest procedure or conduct by the Asaesh.