



**International Convention for  
the Protection of All Persons  
from Enforced Disappearance**

Distr.: General  
18 November 2024  
English  
Original: Arabic  
Arabic, English, French and  
Spanish only

---

**Committee on Enforced Disappearances**

**Additional information submitted by Iraq under  
article 29 (4) of the Convention\***

[Date received: 30 October 2024]

---

\* The present document is being issued without formal editing.



## Contents

	<i>Page</i>
I. Introduction .....	3
II. Report-drafting process .....	3
III. Information regarding the implementation of the recommendations .....	4

## I. Introduction

1. On 5 and 7 October 2020, Iraq discussed its first report containing additional information – submitted under article 29 (1) of the International Convention for the Protection of All Persons from Enforced Disappearance – before the Committee on Enforced Disappearances at its nineteenth session, which was conducted remotely due to the coronavirus disease (COVID-19) pandemic. The discussion resulted in a body of recommendations.
2. Iraq duly submitted its follow-up report to the Committee on Enforced Disappearances (CED/C/22/4) with information on the steps taken by the State to give effect to the recommendations contained in paragraphs 5, 7, 13, 17, 25 and 31 of the concluding observations.
3. Under its Decree No. 112 of 2021, the Council of Ministers approved the five-year national human rights plan (2021–2025), which marks a path for governmental and sectoral institutions and agencies to follow, in the light of recommendations and concluding observations received by Iraq during periodic discussions of reports before treaty- and non-treaty-based mechanisms. The plan aims to create a system of national legislation that is consistent with international treaties, develop national policies to protect and promote human rights, consolidate national gains and build institutional and individual capacities. The Decree envisages the creation of a central committee to monitor the implementation of the plan. For its part, the Kurdistan Regional Government has drafted and approved the Region’s own human rights plan (2021–2025), a process that involved all the institutions in the Region and that took account of the human rights plan of the federal Government.
4. The programme of the Government of Iraq envisages efforts to consolidate human rights principles by creating a unit within the Office of the Prime Minister, in coordination with the Ministry of the Interior, to monitor cases of human rights violations and any incidents that might befall in police stations or detention facilities and to take legal measures against those responsible, to ensure that there is no impunity.
5. A national policy to protect civilians and guarantee their rights was adopted in 2024. It aims to strengthen commitment to human rights principles and standards, in accordance with international humanitarian law and international human rights law, and to develop the capabilities of military and security personnel in times of peace, armed conflict, natural disasters and unrest.
6. The National Committee for Missing Persons has been reconstituted under the leadership of the Ministry of Justice and with members taken from the judiciary, the security services and the executive. The committee has overarching responsibility for missing persons’ dossiers and for establishing a national registry of missing persons.
7. Iraq hereby submits its report containing additional information on the concluding observations of the Committee, under article 29 (4) of the Convention.

## II. Report-drafting process

- (a) *Preparation stage*: This stage focused on examining and analysing the concluding observations, identifying which bodies were to be responsible for implementing them and circulating them to the relevant authorities.
- (b) *Information-gathering stage*: This involved the collection, from the authorities concerned, of information regarding the implementation of the recommendations, in order to draft the report. The information received was reviewed and updated on an ongoing basis.
- (c) *Review and drafting stage*: During this stage, the information requested in the recommendations was integrated into a preliminary draft report and approved by the national committee for writing reports under international treaties.
- (d) *Approval stage*: The final draft of the report was submitted to the Council of Ministers where it was approved before being sent to the Committee.

The present report illustrates the actions taken by Iraq to implement the concluding observations.

### **III. Information regarding the implementation of the recommendations**

#### **Paragraph 5 of the concluding observations**

8. The missing persons section in the Human Rights Department at the Ministry of Justice, acting under its own rules of procedure No. 2 of 2019, is coordinating with other competent bodies in an attempt to discover the fate of missing persons, in line with international standards. It is also creating a national register of missing persons by matching information received from the courts, the security services and the executive authorities. For his part, the Prime Minister has issued a decree to the following effect:

- Changing the name of the Committee on Enforced Disappearances to the Committee for Missing Persons.
- Designating the Human Rights Department at the Ministry of Justice as the authority responsible for the national register of missing persons.
- Enjoining the competent authorities – each within its own remit – to update the register on a regular basis so that the information duly reflects the numbers of complaints, reports and requests, the name of the missing person and the outcome of any searches and investigations. This information can thus be delivered to the Committee accompanied by a written undertaking from the relatives of the missing person confirming the authenticity of the information.
- Enjoining the Ministry of Justice to use computer software to avoid any duplication of names, in coordination with the competent security authorities.

9. The National Committee for Missing Persons has been reconstituted to deal with all cases of missing persons, including those enforcedly disappeared. The Committee – which uses precise procedures to create a standardized database for all missing persons in Iraq – is chaired by the Ministry of Justice and has members from the judiciary, the executive and the security services. For its part, the missing persons section in the Human Rights Department will undertake the following tasks:

- Fulfilling the international obligations of Iraq vis-à-vis missing persons under the International Convention for the Protection of All Persons from Enforced Disappearance and the relevant national legislation. This covers all cases of missing persons, including those brought before the Working Group on Enforced or Involuntary Disappearances and the United Nations Committee on Enforced Disappearances.
- Administering the issue of missing persons in Iraq with the Human Rights Department at the Ministry of Justice, which is the legally competent body. It coordinates with the courts, the security services and the executive authorities and receives communications, reports and complaints from the relevant authorities at the national and the international levels.
- Establishing a unified national registry of missing persons at the Department of Human Rights which the competent authorities are to undertake to keep updated with the necessary information.
- Developing a mechanism for investigating the fate of missing persons in Iraq, to be undertaken by the Department of Human Rights in coordination with the relevant national authorities.

10. The missing persons section at the Ministry of Justice is responsible for searches and investigations, to which end it coordinates with the relevant sectoral authorities when reports of enforced disappearances are received from the Working Group on Enforced or Involuntary Disappearances via the Ministry for Foreign Affairs. The search process is conducted as follows:

- Complaints and reports are received from international and national bodies.
- With a view to searching for the missing person, contact is established with the following authorities: the Supreme Judicial Council, the Ministry of the Interior, the Ministry of Defence, the Counter-Terrorism Service, the National Security Agency, the National Intelligence Service, the National Security Advisory, the Popular Mobilization Forces, the Ministry of Migration and Displaced Persons, the Ministry of Health (Forensic Medicine Department), the Ministry of Labour and Social Affairs, the Iraqi Department of Corrections, the Martyrs Foundation and the Kurdistan Regional representation.
- A standardized missing persons form has been prepared that includes all the information required for the search:
  - Given name (quadripartite) and surname
  - Mother's name
  - Home address
  - Name of spouse
  - Number of civil status card, citizenship certificate or national identity card
  - Copy of a valid passport
  - Suspected party and the date and location of the disappearance
  - Source of police information
  - Source of the complaint filed before the competent courts
  - A recent photograph of the missing person
  - Employment of the person concerned prior to the disappearance.

11. The competent authorities are then informed of the outcome of the investigation and are provided with the information obtained.

12. The investigative courts conduct inquiries into the missing person cases with which they are presented, following up on such cases with security agencies with a view to discovering the fate and whereabouts of the persons concerned. Ongoing investigations are monitored at the highest levels of the Supreme Judicial Council and the Public Prosecution Service.

13. The Human Rights Directorate (missing persons section) at the Ministry of the Interior is tasked with searching its own database with a view to locating and discovering the fate of missing persons. It also receives – using a special form developed for the purpose – complaints and requests from citizens, ministerial and non-ministerial entities and international and humanitarian organizations.

14. The Human Rights Directorate at the Ministry of the Interior has the task of forming a team to follow up on the missing person cases forwarded to it from the missing persons section at the Ministry of Justice. The following measures can then be taken:

- A team at the police station whose geographical jurisdiction covers the area of the missing person verifies the disappearance by interviewing the person's relatives and asking them to file a complaint with the competent police station and before the Iraqi courts.
- Upon completion of the investigation, a copy of the outcome, of the complaint and of the interview with the relatives of the missing person is referred to the missing persons section at the Ministry of the Interior.
- Searches are conducted in the database of missing persons at the Ministry of the Interior and the database of the Directorate of Residency and Passports to determine whether the missing person is inside or outside the country.
- Searches for missing persons are conducted in the database of wanted members of the Da'esh terrorist groups, post-2014.

- Coordination takes place with the authorities in Kurdistan Region with a view to conducting inquiries and searches in their own databases, if the missing person was displaced to the Region as a result of military operations or lived there from 2014 onwards.

15. The Human Rights Directorate at the Ministry of Defence has the task of forming a team to follow up on and conduct urgent investigations into the missing person cases forwarded to it from the missing persons section at the Ministry of Justice. The following measures can then be taken:

- Searches are conducted in the database of the Ministry of Defence to determine whether the missing person is in the ranks of the military or was killed or went missing during the course of military operations from 2010 to the present.
- Searches for missing persons are conducted in the database of persons killed in the Camp Speicher massacre.
- If a record or the name of the missing person appears in the military archives at the Ministry of Defence, the missing persons section at the Ministry of Justice is to be duly informed so that this information can be recorded in its own database, and the Ministry for Foreign Affairs is to be notified of the resolution of the case.

16. The Ministry of Defence uses transparent and effective procedures, endorsed by law, which give families of missing persons access to all the information related to the search for their loved ones:

- The Ministry operates according to United Nations guidelines regulating the search for enforcedly disappeared persons.
- It receives allegations from the Human Rights Department at the Ministry of Justice, which in turn has received them from the Ministry for Foreign Affairs which received them from the Office of the United Nations High Commissioner for Human Rights (OHCHR).

17. Searches for missing persons and the verification of allegations are conducted through official communications, as well as by committees formed to deal with allegations of different types.

18. The Ministry of Defence communicates the outcome of the search to the Human Rights Department at the Ministry of Justice, which is the responsible authority and the administrator of the central register of missing persons.

19. The Counter-Terrorism Service replies to requests from the competent authorities for information about the fate of missing persons. The reply is given after having scrutinized and cross-checked the information with the competent judicial investigator.

20. The Iraqi National Security Agency provides the National Committee for Missing Persons with all the information available on the Agency database concerning the names being sought, and it undertakes to verify that information as well as the information sent by the investigating judge. The Agency then sends its reply to the requesting party in cases related to enforced disappearance. The relevant investigations are conducted by the competent authority, which is the Judicial Council.

21. The National Intelligence Service also conducts inquiries into the fate of missing persons using its own database. It also monitors the movement of travellers across points of entry and provides that information to the competent authorities.

22. A Human Rights Directorate was formed as part of the Popular Mobilization Forces to handle all human rights-related matters arising within the Forces and to represent the Forces on the National Committee for Missing Persons. The Directorate also responds to missing person inquiries received from the Ministry of Justice, circulating the names of the persons concerned to the Force's General Directorate for Security and Discipline, to the Intelligence and Information Directorate and to brigades stationed in liberated areas.

23. The Forensic Medicine Department at the Ministry of Health seeks to match the names of missing persons it receives from the missing persons section at the Ministry of Justice with

its own database of deceased persons. Other steps taken include showing photos of unidentified bodies to the families of missing persons and taking blood samples.

24. The Department for Mass Graves at the Martyr's Foundation coordinates with the Forensic Medicine Department at the Ministry of Health and the Human Rights Directorate at the Ministry of Defence to open mass graves, recover and identify the bodies, conduct autopsies and inform investigators of the outcomes. It also works with other departments to create a single, unified national database.

25. The Iraqi Department of Corrections is responsible for conducting inquiries into the fate of persons missing in its prisons and correctional facilities, and it provides the missing persons section at the Ministry of Justice with full information about any allegations in that regard. If the missing person was in the custody of the Department of Corrections, the Department is to provide the missing persons section with the following information concerning that person:

- Medical reports
- Records of entry and release
- Court rulings
- Appointment of a lawyer
- The law under which the person was convicted.

26. The Ministry of Migration and Displaced Persons makes inquiries into persons whose names are given by the Ministry of Justice. The Ministry of Migration uses its own database of internally displaced persons and persons displaced abroad, then provides the Ministry of Justice with the information thus obtained.

27. The Ministry of Labour and Social Affairs makes inquiries using its database of persons who are covered by the Survivors Act and other data relating to social protection, then provides the Ministry of Justice with the results of its searches.

28. Acting under its legal mandate set forth in Act No. 53 of 2018, the Iraqi High Commission for Human Rights receives missing person complaints and allegations from individuals and organizations, and refers them to the competent public authorities.

## **Definition of enforced disappearance and appropriate penalties**

### **Paragraph 7 of the concluding observations**

29. The Ministry of Justice has drafted a bill on enforced disappearance that is intended to give effect to the obligations of Iraq under the International Convention for the Protection of All Persons from Enforced Disappearance. The bill was discussed in the Council of State, also in the light of observations and comments made by the institutions concerned, then submitted to the Council of Ministers and thence to the Council of Representatives.

30. The Government is making strenuous efforts to promulgate a law on enforced disappearance. It fully understands the philosophy underpinning the International Convention for the Protection of All Persons from Enforced Disappearance and supports the implementation of the Convention at the national level. Indeed, the accession to the Convention under Act No. 17 of 2009 was an expression of the desire to build a State founded on rule of law and to prevent and reduce the impact of enforced disappearances. The bill is consistent with the Convention; it defines enforced disappearance as it is defined in article 2 of the Convention, it designates such actions as crimes punishable by law and it allocates specific penalties.

31. In accordance with the principle of the separation of powers, the enactment of legislation is the responsibility of the legislative branch. The human rights committee of the Iraqi Council of Representatives has initiated procedures for the enactment of a law on enforced disappearance by giving its approval, in principle, to the bill submitted by the Government. The bill has now been sent before the Council of Representatives for the completion of legislative procedures.

32. The bill on enforced disappearance includes provisions that are consistent with the International Convention for the Protection of All Persons from Enforced Disappearance. Article 1 defines enforced disappearance in the following terms: “the arrest, detention, abduction or any other form of deprivation of liberty by State officials or persons charged with public service, or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”. Thus, with the passage of the bill, enforced disappearance will be criminalized and punished under a separate law within a unified legal framework. Penalties for persons who commit the crime of enforced disappearance are set forth in articles 9–12, in section VII of the bill.

33. Articles 322, 324, 421, 422, 423, 424 and 425 of the Criminal Code (Act No. 111 of 1969), as amended, define acts committed by State agents or non-State entities (abduction, detention, arrest without a court order) that correspond to the definition of enforced disappearance.

34. Article 92 of the Code of Criminal Procedure (Act No. 23 of 1971) stipulates: “No person may be arrested or detained except pursuant to a warrant issued by a judge or a court and in accordance with the conditions established by law.” This article is consistent with article 421 of the Criminal Code, which stipulates: “Anyone who arrests, detains or deprives a person of liberty by any means without a warrant from a competent authority and in circumstances other than those explicitly provided for in applicable laws and regulations shall be liable to a term of imprisonment.”

35. Iraqi law criminalizes acts that fall within the definition of enforced disappearance contained in article 2 of the Convention (arrest, detention, abduction or any other form of deprivation of liberty) and prescribes severe penalties for the perpetrators of such crimes, as well as for instigators or accomplices.

36. In Kurdistan Region, cases of enforced disappearance are dealt with under Act No. 17 of 2021, which constitutes the first amendment to Act No. 3 of 1999 on persons missing in the genocide campaigns against the people of Iraqi Kurdistan. The new Act covers numerous issues, including providing truth to victims’ families and establishing a national committee for missing persons. Cases of enforced disappearance are also dealt with under articles 421–427 of the Iraqi Criminal Code (Act No. 111 of 1969), as amended, which concern the crime of abduction.

37. The national policy to protect civilians sets the standard for the country’s compliance with and application of international humanitarian law and international human rights law. The policy also promotes compliance and commitment on the part of the military and the security services to implement the policy and avoid any violations against civilians.

## **Acts committed by the so-called Islamic State in Iraq and the Levant and affiliated groups**

### **Paragraph 9 of the concluding observations**

38. Article 15 of the 2005 Constitution of Iraq states: “Every individual has the right to life, security and liberty. It is prohibited to deny or restrict these rights except in accordance with the law and on the basis of a decision handed down by a competent judicial authority.”

39. Crimes characterized as enforced disappearance are addressed in article 421 of the Criminal Code (Act No. 111 of 1969), which states: “Anyone who arrests, detains or deprives a person of liberty by any means without a warrant from a competent authority and in circumstances other than those explicitly provided for in the applicable laws and regulations shall be liable to a term of imprisonment of up to 15 years, in the following circumstances:

- If the action is committed by a person who is wearing, without entitlement, the uniform or distinctive official insignia of a public servant, assumes a false public identity or produces a fake warrant of arrest, detention or imprisonment while claiming that it was issued by a competent authority.



- If the action is accompanied by the threat of death or of physical or mental torture.
- If the offence is committed by two or more persons or by a person bearing a weapon.
- If the period of arrest, detention or deprivation of liberty exceeds 15 days.
- If the purpose of the act is financial gain.”

40. Article 2 (8) of the Anti-Terrorism Act No. 13 of 2005 reads: “The following acts are considered acts of terrorism: ... Abducting, restricting the freedom of or detaining persons in order to extort money for the purpose of obtaining political, sectarian, nationalistic, religious or racial advantage in a manner that threatens national security and unity and promotes terrorism.”

41. The Investigation Directorate at the Counter-Terrorism Service is responsible for investigating groups accused of committing terrorist offences, including enforced disappearance. In this regard, the Investigation Directorate works in coordination with the body assigned by the Supreme Judicial Council to monitor the cases handled by the Counter-Terrorism Service. Following the investigation, persons shown to have committed terrorist offences are referred to the courts for sentencing.

42. A large number of the abductions carried out by Da’esh terrorist gangs have been resolved. Others are in the process of being investigated with members of Da’esh who face charges of abduction and murder, both of civilians and of military personnel. Iraqi criminal courts have handed down rulings in this regard on the basis of recorded confessions made by perpetrators, supported by witness testimony and other legally probative evidence.

Table 1

**Statistics relating to abductions committed by the Da’esh terrorist organization that are in the course of investigation or trial, for the period 2020–2024**

<i>Case type</i>		<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>	<i>2024</i>
Abductions being investigated	In process	615	720	556	1 011	67
	Concluded	570	714	516	888	53
Abductions brought for trial	In process	178	333	182	120	4
	Concluded	158	187	166	103	3
	Convictions	96	105	83	48	0

43. According to available statistics, a total of 6,417 Yazidi citizens were abducted, most of them women and children. Of them, 3,576 were rescued – 1,208 women, 339 men, 1,070 girls and 959 boys – while 2,693 remain unaccounted for.

44. The period during which Da’esh terrorist gangs controlled a number of Iraqi governorates constitutes a dark age, the time in which the bulk of the enforced disappearances in Iraq occurred. In fact, in addition to murders, forced displacement and the concealment of bodies, the terrorists also transported large numbers of abducted persons to other countries and were involved in human trafficking, which also had a large number of victims.

45. Following the liberation, a large number of mass graves was discovered, including the graves of persons killed in the Camp Speicher massacre and in Badush prison as well as the bodies of abducted Yazidis and others. The process of opening the graves is still ongoing at the time of writing the present report.

46. A committee was formed under Administrative Order No. 23434 to search for abducted Yazidis and other categories mentioned in article 2 of Yazidi Female Survivors Act No. 8 of 2021. The committee is headed by the Human Rights Adviser to the Prime Minister and its membership includes representatives of the Ministry of the Interior, the Ministry for Foreign Affairs, the Ministry of Labour and Social Affairs (General Directorate for Survivors’ Affairs), the National Intelligence Service and the National Security Agency. The committee conducts searches for abducted persons of both sexes and is creating a unified database of abductees, through the good offices of the General Directorate for Survivors’ Affairs. Thanks to the work of the committee, a number of abducted persons from the Yazidi and Turkmen have been returned to their families.

47. The outcome of investigations conducted by the security services and the courts into certain cases of enforced disappearance in Iraq revealed that the persons concerned were members of Da'esh terrorist gangs. The total number of such cases was 129, and in 36 of them arrest warrants were issued by the national criminal courts because the parties in question had participated in terrorist activities and were members of the aforementioned terrorist organization. A further 17 cases involved Yazidis who had been abducted by Da'esh.

48. Security forces and law enforcement personnel are using security and intelligence reports and judicial arrest warrants to hunt down members of Da'esh terrorist gangs and bring them to justice.

49. In Kurdistan Region, terrorism cases are dealt with under the Anti-Terrorism Act No. 8 of 2010. According to the Supreme Judicial Council in Kurdistan Region, terrorism cases in the Region between 2021 and 2023 were as follows:

- A total of 496 cases distributed by governorate as follows: 381 cases in Erbil (325 of them resolved), 54 cases in Sulaymaniyah, and 61 cases in Dahuk.

50. Cases recorded in the Region involving crimes committed by Da'esh are as follows:

1	Cases registered with the investigatory authority	2 872 cases
2	Complainants registered with the investigatory authority (complainant = victim)	3 171 cases
3	Victims registered as missing	2 853 cases
4	Victims registered as missing (female)	1 055 cases
5	Victims registered as missing (male)	1 798 cases
6	Female victims of serious violations	2 017 cases

## **Criminal responsibility of superior officers and due obedience**

### **Paragraph 11 of the concluding observations**

51. Article 19 of the 2005 Constitution of Iraq stipulates: "Persons may not be detained or imprisoned in facilities other than those designated for that purpose." The protection of human freedom and dignity are also enshrined in the Constitution, while the State guarantees protection for individuals against intellectual, political and religious coercion.

52. Iraqi law has established important legal rules regarding offences that could amount to enforced disappearance if the elements stipulated in article 2 of the Convention subsist. Jurisprudence holds that an action can be considered as criminous and liable to be dealt with under existing legal provisions, even in the absence of an explicit text. The Criminal Code (Act No. 111 of 1969), as amended, includes clear provisions (arts. 322–324) relating to offences committed by State officials or persons charged with public service that might amount to enforced disappearance. Article 92 of the Code of Criminal Procedure (Act No. 23 of 1971) stipulates: "No person may be arrested or detained except pursuant to a warrant issued by a judge or a court." This demonstrates the extent to which domestic laws and legislation are already consistent with the Convention, over and above the Government's efforts to enact a separate law covering this offence.

53. The security forces are bound by the Military Criminal Code (Act No. 19 of 2007). Article 24 of the Code deals with the issue of abuse of authority, as follows:

“(i) If an order issued to carry out a military duty itself constitutes an offence, criminal responsibility for that offence rests with the person who issued the order.

(ii) The lower-ranking party is considered to be an accomplice to the offence in the following cases:

(a) If he exceeds the limits of the order

(b) If he is aware that the intention of the order received is to commit a military or civilian offence.”

Article 52 (1) of the Code states:

“(a) Anyone who uses the authority of office, position or rank to order a person of lower rank to commit an offence shall be liable to imprisonment.

(b) The person who issued the order shall be considered the principal perpetrator of the offence if it is committed or attempted.”

54. Article 22 in section VII (abuse of authority) of the Internal Security Forces Criminal Code (Act No. 14 of 2008) stipulates that the highest-ranking officer is to be held liable if an order entails a request to a subordinate to undertake an action for personal gain unrelated to their duties, or if the subordinate is ordered to commit a crime. In such a case, the law presupposes that the person who received the order or instruction believed in the legitimacy of the action. If that is not the case, the law holds the subordinate liable for the actions and considers him to be a perpetrator and accomplice alongside the principal perpetrator. In this way, all members of the security services are held legally accountable if they commit an offence, and all persons are equal before the law, in accordance with article 14 of the 2005 Constitution of Iraq.

55. All accused persons, including those accused of terrorist offences, are arrested under warrants orders issued by investigating judges. Once the investigations are complete, the persons concerned are sent before the competent courts where they are examined in accordance with the law before a verdict is handed down.

56. Current legislation and laws clearly identify who the law enforcement authorities are and authorize them to effect arrests under warrants issued by the courts.

57. The Human Rights Directorate at the Ministry of Defence is taking procedural and precautionary action to combat the crime of enforced disappearance and to uncover information about the fate of victims:

(a) Procedural steps:

(i) Confirming that the incident in question falls within the army’s sphere of responsibility

(ii) Checking the information in the complaint (numbers, names, etc.)

(iii) Forming an ad hoc fact-finding committee within the Directorate which is to visit the military unit with jurisdictional responsibility

(iv) Checking the database of persons being held in detention by the Ministry of Defence.

(b) Preventive steps:

(i) Conducting periodic and unannounced visits of inspection to army groups

(ii) Running a hotline for reporting human rights violations

(iii) Assigning legal advisers to military units who, in addition to their other duties, are to perform the functions of human rights officers

(iv) Conducting training and educational activities for Ministry of Defence staff on the International Convention for the Protection of All Persons from Enforced Disappearance, drawing attention to the seriousness of that crime, the legal penalties envisaged and the reputational damage it causes to the Government of Iraq before the international community.

58. The legal department of the Human Rights Directorate at the Ministry of Defence has drafted manual No. 262 on human rights in the light of studies conducted in Iraq. The manual deals with the protection of persons against enforced disappearance and quotes articles from the Criminal Code (Act No. 111 of 1969), as amended, that detail the penalties for that offence. The manual is part of the official curriculum taught in Ministry of Defence training establishments. In addition to this, posters have been printed relating to the crime of enforced disappearance and how perpetrators can be held legally accountable.

59. In cooperation with OHCHR and the Iraqi Red Crescent Society, the Ministry of Defence has implemented the fourth phase of a programme for the implementation of human rights in military institutions.

60. In cooperation with the mission to Iraq of the North Atlantic Treaty Organization (NATO), the Ministry of Defence has produced a code of conduct for soldiers in peace and in war, and 50,000 copies of the code have been distributed among military units. In addition to this, training courses have been held on the International Convention for the Protection of All Persons from Enforced Disappearance.

61. On 10 March 2024, the secretary-general of the Popular Mobilization Forces issued instructions for workshops on law enforcement to be held. Acting on those instructions, the Forces' Human Rights Directorate duly cooperated with OHCHR and the United Nations Assistance Mission for Iraq (UNAMI) to hold the workshops at the headquarters of the General Directorate for Security and Discipline.

62. The authorities in Kurdistan Region are running courses to build the capacities of judges and prosecutors. The courses, which take place inside and outside the region with the help of local and international organizations, have been attended by 113 judges. Legal and procedural courses have also been run by United Nations organizations, the European Union and the United States of America covering topics such as terrorism, the fight against drug trafficking, human rights, combating violence against women, human trafficking, transparency and money-laundering.

63. The national policy to protect civilians lays emphasis on the need to ensure legal accountability for military and security personnel for violations of international humanitarian law and international human rights law that affect civilians' lives, property or rights. The policy also seeks to protect civilians by disseminating the principles and standards of international humanitarian law and international human rights law among staff of military and security bodies and State institutions. It also aims to develop the capacity of those institutions to protect civilians in times of peace, war and natural disaster.

### **Development by the State of strategies to prevent enforced disappearances, to search for disappeared persons and to protect complainants and persons involved in the investigation of enforced disappearance**

#### **Paragraph 13 of the concluding observations**

64. Act No. 58 of 2017 concerning the protection of witnesses, experts, informants and victims includes provision for a mechanism to protect such categories of persons and their families, overcome any reluctance to give testimony and ensure that their evidence can be duly given and preserved. Article 2 of the Act stipulates "The provisions of the present Act are applicable to witnesses, informants, victims and experts in criminal proceedings and in terrorism-related proceedings, as well as to their relatives up to the second degree. The criminal proceedings covered by the Act are to be determined by an order issued by the Council of Ministers, at the proposal of the Supreme Judicial Council and the Commission on Integrity." According to article 15 of the Act: "Anyone who coerces, threatens or entices persons who are covered by the provisions of the present Act to get them to change their testimony or expert opinion is liable to imprisonment. The offence is aggravated if the testimony or expert opinion in question relates to a terrorist crime or crimes against internal or external State security."

65. The bill on enforced disappearance contemplates protection for complainants, witnesses, relatives of disappeared persons, their lawyers and all parties involved in investigations from any ill-treatment or intimidation that might arise from submitting a complaint or proffering evidence. In that connection, article 6 (5) of the Act states: "Informants in crimes of enforced disappearance may request that their identities remain concealed and that they not be considered as witnesses. The judge is to record this fact along with a summary of the information given in a special register kept for that purpose, and may

then conduct an investigation on the basis of that information without recording the name of the informant in the casefile.”

66. The Ministry of Defence has designated three channels within the legal department of the Human Rights Directorate to receive complaints concerning enforced disappearances and other matters. They are: email, a hotline and regular post. Complaints can also be made in person.

67. The Human Rights Directorate at the Ministry of Defence handles reports of enforced disappearances, which it examines and verifies in coordination with other stakeholders. If a case of enforced disappearance is confirmed, a fact-finding committee is formed in accordance with the guidelines that regulate the search for enforcedly disappeared persons.

68. The Intelligence Directorate in the Counter-Terrorism Service collects information about terrorist crimes, including enforced disappearances, gathering reports in that regard via its intelligence sources. This information is then submitted to the judicial investigator responsible for examining the cases that come before the Counter-Terrorism Service, and the investigator issues arrest warrants against the parties concerned. Once they have been arrested, the Investigation Directorate steps in to question the suspects and to coordinate with the body assigned by the Supreme Judicial Council to monitor the cases handled by the Counter-Terrorism Service. Following the investigation, persons shown to have committed terrorist offences are referred to the courts for sentencing.

69. For its part, the General Directorate for Security and Discipline in the Popular Mobilization Forces has set up the 50001 hotline to receive reports and complaints regarding any suspicious cases or emergency situations, including intimidations and retaliations, the aim being to hold the persons responsible accountable. In addition, a unit has been created in the Forces’ Human Rights Directorate to receive complaints and grievances, which are then followed up by the General Directorate for Security and Discipline.

## **Reporting and investigation of cases of enforced disappearance**

### **Paragraph 15 of the concluding observations**

70. The National Committee for Missing Persons was established to resolve cases of enforced disappearance in Iraq, to monitor the fulfilment of the Government’s obligations under the International Convention for the Protection of All Persons from Enforced Disappearance, to supervise the drafting of reports on cases brought to the attention of the Working Group on Enforced or Involuntary Disappearances and the United Nations Committee on Enforced Disappearances and to oversee the creation of a unified database by the bodies represented on the National Committee.

71. An agency attached to the Supreme Judicial Council specializes in investigating crimes of enforced disappearance. It has received training and assistance from international organizations and experts in international crime.

72. The Supreme Judicial Council has imparted the following instructions to investigative courts dealing with human rights cases:

- Requiring the courts to receive applications addressed to them in accordance with the law, with no requirement that they should be submitted to the Public Prosecution Service.
- Requiring the courts to receive applications from convicted persons. The competent court in the governorate where the registry is located can then be delegated to complete the procedures necessary to process the application.

73. The Ministry of the Interior has set up special committees which, operating with complete impartiality, conduct investigations into perpetrators of enforced disappearance.

74. Iraq has enacted legislation under which citizens are given access to redress, compensation and rehabilitation. In fact, transitional justice laws include provision for appropriate compensation and concede certain privileges to persons who suffered harm as a result of the policies of the former dictatorship. Furthermore, Iraq treats victims of combat

operations, military errors and terrorist activities in a way that ensures access to redress for all Iraqis, in accordance with Act No. 20 of 2009 concerning compensation for persons affected by military operations, military errors and terrorist activities, as amended. In this context, reference should also be made to Act No. 2 of 2020 which introduced a second amendment into Act No. 20 of 2009.

75. On the subject of compensation for victims, article 1 of the Code of Criminal Procedure states that any person who is the victim of an offence may bring a criminal case against the perpetrator of that offence. According to article 10, victims may seek compensation for the physical or moral harm they have suffered from an offence. In addition to this, article 3 of Act No. 20 of 2009 concerning compensation for persons affected by military operations, military errors and terrorist activities envisages the formation of a central committee, answerable to the Office of the Prime Minister, which considers applications for compensation from victims and their families for harm arising from military operations or terrorist activities.

76. The judiciary takes effective action to address issues of impunity and reparations for victims, so as to ensure that all persons, including those who are most in need of care, have access to justice. It also takes the necessary steps to conduct confidential and comprehensive investigations into human rights violations and other forms of abuse. The judicial system is independent and autonomous, and Iraqi laws guarantee that all persons are able to access justice without any impediments. The investigations conducted by the judiciary into offences involving human rights violations and abuse are exemplary, and that quality is reflected in the rulings handed down by the Iraqi courts.

77. Paragraph 5 of the national policy to protect civilians lays emphasis on the need to increase legal accountability for military and security personnel for violations of international humanitarian law and international human rights law that affect civilians' lives, property or rights. The policy also prohibits the imposition of forced labour, the deprivation of liberty or the arbitrary detention of civilians.

78. Victims of crimes committed by Da'esh are dealt with under Decree of the Council of Ministers No. 1 of 2021. The Decree contains guidelines for the implementation of Act No. 81 of 2017, which aims to honour the sacrifice of persons who laid down their lives in the war against Da'esh. Rules of procedure have been issued for the committee that oversees the implementation of that Act.

79. Details of a mechanism to address situations of enforced disappearance are laid out in article 5 (7), (8) and (9) of the Yazidi Female Survivors Act No. 8 of 2021.

80. The General Directorate for Survivors' Affairs was formed as part of the Ministry of Labour and Social Affairs under article 3 (1) of Act No. 8 of 2021. Its purpose is to implement the Act for the following objectives and using the following means:

- It searches for abducted persons (men, women and children) from the Yazidi, Turkmen, Christian and Shabak communities whose fate remains unknown. In this matter, the Directorate coordinates with the competent authorities inside and outside Iraq and with the families of victims; it seeks to remedy their legal status and to grant benefits and compensation to victims or their families, in accordance with the law.
- The committee envisaged under Administrative Order No. 23434 of 2023, which is headed by the Human Rights Adviser to the Prime Minister, works in cooperation with the General Directorate for Survivors' Affairs and other stakeholders in the search for abducted persons from the Yazidi community.
- The General Directorate for Survivors' Affairs at the Ministry of Labour and Social Affairs has developed a special missing persons questionnaire, which was released on 4 December 2023. A total of 628 persons have registered directly online.
- In the matter of mass graves, the General Directorate has coordinated with the Department for Mass Graves at the Martyr's Foundation with a view to completing search and investigation procedures, opening the graves and identifying the remains then returning the bodies to their families to be buried in a manner that befits the sacrifice made.

- The Directorate coordinates with courts, investigators and international investigation committees to collect evidence and to provide statistics, data and evidence documenting the crimes committed by the Da'esh terrorist organization, thereby helping to ensure that the perpetrators of those crimes are duly prosecuted.
- It coordinates with the Ministry of the Interior on the formation of a committee to issue and renew identity documents for persons rescued from the clutches of the Da'esh terrorist organization.

81. A total of 2,070 survivors from the Yazidi, Christian, Turkmen and Shabak communities who are covered by the provisions of the aforementioned Act have been provided with material and moral compensation as redress for the harm they suffered, thus enabling them to live lives of dignity. To this end, they have been given monthly pensions of 800,000 Iraqi dinars (ID).

Table 2

**Statistics relating to persons covered by the Survivors Act, as of 11 August 2024**

<b>Total</b>			<b>2 070</b>
Women and girls (art. 2 (1))			967
Women and girls (art. 2 (2))			
Turkmen	Shabak	Christian	
14	165	9	39
Children aged under 18 at the moment of abduction (art. 2 (3))			
Boys		Girls	
567		474	1 041
Persons who survived mass killings (art. 2 (4))			23

**Statistics relating to persons inside and outside Iraq who are covered by the Act, as of 11 August 2024**

Persons inside Iraq						1 264
Persons outside Iraq						
Australia	Germany	USA	Türkiye	France	Canada	
183	413	4	1	10	195	806

82. There has been coordination with the governorate of Nineveh with a view to allocating plots of land to persons covered by the Act. In the first instance, 262 land plots have been allocated in the districts of Sinjar and Tall Afar.

83. Action has been taken to rehabilitate and care for survivors, to reintegrate them into society and to prevent any recurrence of the violations they suffered.

84. Data and statistics concerning the survivors covered by the Act have been gathered on the basis of information provided by governmental and non-governmental institutions.

85. Survivors and other categories covered by the provisions of the Act have been provided with the care they require. The General Directorate for Survivors' Affairs has run training courses and workshops to provide survivors with psychological support and to build their capacities with a view to facilitating their reintegration into society.

86. Survivors covered by the Act had been provided with educational opportunities and given the chance to resume their schooling, irrespective of age. During the course of 2023, the Directorate was able to bring 25 survivors back into school, at their own request.

87. Job and employment opportunities have been made available to help survivors achieve socioeconomic security. In this connection, the Directorate has obtained the approval of the Minister of Labour for the concession of 100 loans to help survivors launch their own microprojects, thereby empowering and assisting them to reintegrate into society following the harsh and tragic psychosocial traumas they suffered.

88. Psychological health and rehabilitation centres have been opened for survivors, and efforts are being made to open special health clinics, both inside and outside Iraq. In this regard, the Directorate has opened psychological rehabilitation centres and clinics for survivors in the governorate of Nineveh Governorate (districts of Mosul, Nineveh Plain, Sinjar and Tall Afar) and has made health cards available which persons rescued from the Da'esh terrorist organization can use to receive treatment.

89. Training courses and workshops are being run in coordination with international and local organizations to support and empower survivors and to involve them in formulating the Directorate's programmes, thereby ensuring that those programmes reflect authentic needs. Specifically, Directorate staff and members of the committee formed under article 10 of the Act to examine applications from survivors have undergone intensive training courses on how to deal with victims of sexual violence, in accordance with standards set by the Ministry and international organizations. These workshops and training courses are still ongoing.

90. The Social Protection Commission in the Ministry of Labour and Social Affairs has established psychological support centres in seven governorates and hired social workers to provide the services required.

91. A website to receive applications for compensation was created in September 2022 and 1,670 applications have been received. In addition, 691 decisions have been adopted on behalf of the relevant communities, primarily for the payment of emoluments and other benefits, in collaboration with the competent authorities.

92. The General Directorate for Survivors' Affairs in the Ministry of Labour and Social Affairs has published, with the support of the International Organization for Migration (IOM), posters and brochures in three languages on the instructions, rights and prerogatives contained in the Survivors' Act and the procedure for the submission of applications.

93. In order to facilitate and simplify procedures, and under the principle of "do no harm" which entails prompt action while maintaining the confidentiality of information, the Directorate has engaged in high-level coordination with the president of the Nineveh Court of Appeal and other courts to enable survivors to file complaints directly with the competent judge without having to go via a police station, to maintain confidentiality and privacy and to ensure appropriate treatment of survivors as they submit their applications – either by hand or online from inside or outside Iraq – to the committee formed under article 10 (1) of the Act. In its dealings with survivors, the Directorate thus follows international standards vis-à-vis the confidentiality and privacy of information, and Directorate staff and members of the committee follow regular training courses run by IOM.

94. The following services have been provided to survivors of Da'esh crimes in Kurdistan Region:

- Psychological support programmes for survivors have been launched.
- An institute specializing in psychotherapy and trauma therapy has been opened at Dahuk University from which, thus far, 68 students have graduated and are providing psychosocial services in the camps.
- In 2015, the Region signed an agreement with the German Government for the treatment of survivors; so far, 1,088 Yazidi children of both sexes have been sent to Germany for treatment.
- The Ministry of the Interior of Kurdistan Region has formed mobile field teams in camps to report crimes of sexual violence or harassment against women and girls.
- A treatment, support and rehabilitation centre for female survivors of Da'esh has been opened in Dahuk.
- Fifty centres have been opened inside the camps to raise awareness and to provide physical and mental health services.
- A "genocide centre" has been opened in the governorate of Dahuk, one of the tasks of which is to implement protocols regulating the investigation and documentation of sex crimes in conflict situations.



- A national plan of action has been launched under Security Council resolution 1325 (2000) on women, peace and security.
- The Directorate of Yazidi Affairs in the Ministry of Endowments and Religious Affairs and the United States organization CRI have set up a centre in Erbil for the rehabilitation of liberated women.
- Psychosocial and legal services have been provided to 1,278 persons in a psychosocial therapy unit staffed by trained personnel at a counselling centre in Dahuk.

95. As concerns the Camp Speicher massacre:

- Work is ongoing to open the mass graves of victims of the massacre, exhume their remains and return them to their families.
- Compensation is being provided to victims' families and martyrs' rights are being recognized, thus far covering 1,559 victims of the massacre.
- A high-level committee has been established to commemorate this crime at the national level.
- A committee has been formed, chaired by the deputy head of the Office of the Prime Minister and with members representing various stakeholders, to examine what steps need to be taken for the crimes of the Da'esh terrorist organization to be included in the Memory of the World Register of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

## Secret detention

### Paragraph 17 of the concluding observations

96. All Iraqi prisons and detention centres come under the authority of the competent governmental bodies. This is consistent with article 19 (12) (b) of the Iraqi Constitution, which stipulates: "Persons may not be detained or imprisoned in facilities other than those designated for that purpose, in line with laws regulating prisons. Such facilities must provide health and social care and be subject to the authorities of the State." It follows from this that there are no secret prisons or detention facilities in Iraq.

97. No complaints relating to the existence of secret prisons have been received by the Iraqi courts, security agencies or governmental bodies, nor has any evidence been forthcoming in this regard.

98. Prisons, detention facilities and deportation centres fall under the supervision of the Head of the Public Prosecution Service. Such places are subject to regular visits of inspection to ensure that all inmates are being held under proper warrants issued by the courts.

99. Article 45 of the Prisoners and Detainees Reform Act No. 14 of 2018 identifies the following bodies as being authorized to conduct prison inspections: the Council of Representatives, the Public Prosecution Service, the High Commission for Human Rights, the council of the governorate in which the prison or detention centre is located and any other legally authorized body.

100. The Minister of Justice conducts regular and unannounced field visits to correctional institutions to familiarize himself with the situation inside prisons and to hear directly from inmates. These visits have resulted in a number of decrees that have helped to improve prison conditions.

101. The Human Rights Adviser to the Prime Minister also undertakes visits to prisons and detention facilities to assess the legal and humanitarian situation of inmates. The Adviser then reports directly to the Prime Minister who directs the competent authorities to put an end to any violations that might have emerged during the visits.

102. The Iraqi Department of Corrections is an institution with independent legal personality where persons who have been sentenced by the courts are placed for the

enforcement of their sentences. Article 1 (6) of the Prisoners and Detainees Reform Act No. 14 of 2018 expressly states that the Department has no secret detention facilities.

103. Ministry of Defence detention centres located at the headquarters of military detachments and units are authorized solely to enforce disciplinary penalties imposed against military personnel. They may not be used to hold civilian detainees, and anyone who does so is legally accountable.

104. Detention facilities run by the Ministry of the Interior are subject to regular visits by inspection teams, including the Ministry's own Human Rights Directorate.

105. The Iraqi National Security Agency does not have any secret detention centres or prisons. Detainees are placed in facilities that are under the supervision of the Public Prosecution Service, and they enjoy the rights enshrined in the Code of Criminal Procedure.

106. All detention facilities run by the Ministry of the Interior are subject to periodic inspection using a database in which the names and locations of all the facilities are recorded. No one may be detained anywhere other than in one of those facilities and, if persons are found to be being held in places not designated for detention, the Ministry takes legal action against the persons responsible.

107. The Ministry of Defence has a single pretrial detention facility that is subject to international and national monitoring. It is used by a number of institutions – such as the National Intelligence Service, the National Security Agency and the Popular Mobilization Forces – to hold persons who have been arrested under warrants issued by the competent courts. All inmates who have been convicted are transferred to the Iraqi Department of Corrections. Prisons inside military units are used exclusively for the enforcement of disciplinary penalties.

108. Inspection teams from the Ministry of Defence, the Independent High Commission for Human Rights and the International Committee of the Red Cross (ICRC) conduct visits to military units affiliated with the Ministry of Defence, in coordination with the Ministry's own Human Rights Directorate.

109. Persons who have been arrested by units belonging to the Counter-Terrorism Service enjoy all the safeguards envisaged under the Constitution and the law, including that of no arrest or restriction of freedom without a warrant duly issued by the competent judicial authorities.

110. There are no secret prisons in Kurdistan Region, and all arrests there are carried out in accordance with the laws and under an official court warrant. Both local and international organizations undertake visits to monitor the conditions of detainees and convicted inmates, in cooperation and coordination with the relevant authorities in the Kurdistan Regional Government.

## **Fundamental legal safeguards**

### **Paragraph 19 of the concluding observations**

111. The right of citizens to live dignified and secure lives is enshrined in the 2005 Constitution of Iraq. Article 19 of the Constitution states: "All persons have the right to life, security and freedom, and those rights may not be removed or restricted save in accordance with the law and under a legal ruling issued by a judicial authority." According to article 19 (4): "Persons are innocent until proven guilty in a fair and legal trial. Once freed, accused persons cannot be retried on the same charges unless new evidence emerges." Article 19 (5) reads: "The right of self-defence is upheld and guaranteed at all stages of the investigation and the trial."

112. Iraqi courts operate under the Iraqi Code of Criminal Procedure (Act No. 23 of 1971). Article 92 of the Code stipulates: "No person may be arrested or detained except by order of a judge or a court or as permitted by law."

113. According to article 123 (2) of the Code of Criminal Procedure (Act No. 23 of 1971), the judge must inform accused person "that they have the right to be represented by a lawyer

and that, if they are unable to engage a lawyer for themselves, the court will, without charge, appoint one on their behalf”.

114. By means of circulars, the Supreme Judicial Council has instructed all investigating courts in Iraq to refrain from enforcing arrest warrants that do not contain a person's full name or the data required under article 93 of the Code of Criminal Procedure (Act No. 23 of 1971). Article 93 reads; “No person may be arrested or detained except by order of a judge or a court or as permitted by law.” The purpose of this is to avoid cases of arrest on suspicion and the material and moral harm this can occasion to persons who are arrested merely because their names are the same as those of wanted persons.

115. Legal safeguards for persons in detention are envisaged under the Anti-Terrorism Act No. 13 of 2005 as well as under article 3 (2) (a), (c) and (d) of the Act regulating the Counter-Terrorism Service, according to which:

(a) Surveillance, search and investigation activities are to be carried out under a court order;

(b) Arrest warrants issued by a competent judge are to be enforced in accordance with the Anti-Terrorism Act;

(c) Arrested persons are to be interrogated by judicial investigators under the supervision of the competent judge. All accused persons arrested by units of the Counter-Terrorism Service are to be arrested under warrants issued by a competent judge in accordance with the Anti-Terrorism Act.

All persons in the custody of the Counter-Terrorism Service pending investigation are duly informed of their rights, which include the right to appoint a defence lawyer. Persons unable to appoint a lawyer will have one appointed on their behalf by the court. Accused persons are brought before a judge within a maximum of 24 hours from the time of arrest while, for their part, public prosecutors in detention centres check to ensure the validity of the documents and arrest procedures. The court listens to the requests made by the lawyer of an accused person and duly informs the person's relatives of the place of detention and allows them regular contact. Detention conditions are also monitored by the ICRC mission in Baghdad.

116. Accused persons can be held in the pretrial detention facility of the Ministry of Defence only under a court order. The facility has a technical investigative body, answerable to the Supreme Judicial Council, which examines the cases of detainees. The Human Rights Directorate (legal department) at the Ministry of Defence monitors the situation of civilian detainees and ensures that they are able to benefit from due legal safeguards. In fact, the pretrial detention facility allows lawyers to meet with detainees in order to familiarize themselves with the legal proceedings and defence strategies. Under its own protocols, the prison administration maintains registers of the weekly communications of pretrial detainees (Iraqis, detainees from other Arab States and foreigners). Persons are not held in military units for more than 24 hours after which time, following a medical examination, they are duly handed over to the ordinary justice system.

117. The national policy to protect civilians prohibits the detention of any person save under a court order issued in accordance with the law. The policy also places an obligation on law enforcement officials to provide places of detention where legal and human rights requirements are duly fulfilled and where the health and safety of detainees can be guaranteed and they can receive the necessary medical care.

118. Trials of Da'esh terrorists in Kurdistan Region are conducted in accordance with established legal norms. Accused persons have the right to appoint a lawyer during the trial and, if they are unable to do so, the court assigns a lawyer on their behalf with the costs being met by the Judicial Council using a special budget allocated for that purpose. The human rights department in the Regional Security Agency has been given a mandate to visit prisons and, if it discovers any shortcomings, the competent offices in the Security Agency are to be informed to resolve the matter and take legal action against those responsible. If a violation is shown to have taken place, an investigative committee is to be formed within the Agency before the case is then referred to the courts, in accordance with the Internal Security Forces Criminal Code (Act No. 14 of 2008).

119. The Department of Corrections at the Ministry of Justice is seeking to provide channels of communication for persons in detention, in line with article 30 of the Prisoners and Detainees Reform Act No. 14 of 2018, which states: “Public communication devices and telephones are to be installed in facilities of the Iraqi Department of Corrections and the Department of Juvenile Corrections, and the director of the prison or facility is to allow inmates and detainees, upon their request, to call their families not less than once a week or as necessary, for a period of time to be determined by the Department.”

120. During the COVID-19 pandemic, the Ministry of Justice took several measures in the prisons and correctional facilities it runs:

- The formation of a committee chaired by the Minister of Justice to monitor measures to prevent the spread of coronavirus inside prisons and detention facilities.
- Full coordination with the Ministry of Health regarding emergency cases.
- Sterilizing and spraying all areas inside prisons.
- Accelerating the process of conditional release, in coordination with the Supreme Judicial Council.
- Stockpiling medical materials and supplies.
- Vaccinations and blood tests to detect the virus.
- Distributing masks and gloves among all inmates.
- Coordinating with ICRC to provide medical services to inmates.
- Conducting medical and body temperature tests on inmates and staff, and isolating suspected cases of infection.
- Providing isolation rooms and isolation wards equipped with basic medical supplies.
- Increasing the number of hours inmates spend in the sun and open air.
- Increasing the number of hours dedicated to watching television and recreational activities.
- Allowing inmates to communicate with their families via email, videoconferencing and social media, following the suspension of family visits.

121. Precautions were put in place to prevent the spread of coronavirus and healthcare services were deployed in detention facilities run by the Counter-Terrorism Service.

122. Specialized teams in the Ministry of the Interior make periodic visits to detention centres to monitor human rights violations and to check that the health of inmates, the services they receive and the conditions they experience are in line with international human rights standards.

123. During the COVID-19 pandemic, the Popular Mobilization Forces provided medical teams to undertake tasks such as burying the deceased and disinfecting prisons and detention facilities.

124. The Iraqi Department of Corrections organizes visiting schedules to ensure that inmates are able to maintain contact with their families, while taking due account of time constraints and the inmates’ humanitarian situation. In doing so, the Department acts in accordance with article 26 of the Act, which states: “(i) Inmates and detainees may receive visitors and their families at least once a month, and a suitable place for such visits is to be provided. They may receive visits at least once a week if such visits are in their interests and have a positive impact on their rehabilitation. (ii) Inmates and detainees are to be rewarded by increasing the number of visits if they demonstrate a degree of excellence in their work or studies or for good behaviour.”

125. Security authorities in Kurdistan Region help to organize visits for prison inmates, in coordination with local and international organizations and agencies, parliamentary committees and the Region’s Independent Human Rights Commission.

126. Health centres have been set up inside prisons and correctional facilities in Kurdistan Region. The centres, which are run by the Ministry of Health, are permanently staffed by two doctors and a number of assistants, with emergency cases being transferred to hospital. During the COVID-19 pandemic, field teams conducted PCR tests in prisons and correctional facilities in the Region and provided vaccinations for all inmates, without exception. In the course of 2020, 15 cases of coronavirus were diagnosed and appropriate treatment was provided. Detainees also receive mental healthcare, with 244 cases being diagnosed in 2020, most of which were cured, and 167 cases in the period between 2021 and 2022, 11 of which were cured. In all, healthcare centres in prisons and detention centres have received 54,331 visits.

- Fifty laptop devices have been supplied to correctional facilities in order to ease audiovisual communication between convicted persons and their families, particularly foreign inmates.
- In cooperation with the Ministry of Higher Education and Scientific Research, action has been taken to ensure that convicted persons can study at universities and institutes free of charge.
- Servers and databases have been made available to facilitate online operations in correctional facilities.
- Courses have been organized for prison staff.
- A committee has been formed to oversee the provision of services in correctional facilities, notably concerning food but also as regards the working hours and clothing of staff.
- Cardiac surgery is provided for prison inmates free of charge.
- A videoconferencing system has been set up at the Erbil Department of Corrections for Women and Children. The system is linked to the juvenile court and can be used to complete legal procedures online.

## Registers of persons deprived of liberty

### Paragraph 21 of the concluding observations

127. Operating under the Prisoners and Detainees Reform Act No. 14 of 2018, the Iraqi Department of Corrections is working to compile a register of all the persons held in its prisons. Article 8 (4) of the Act states: “The identity of inmates and detainees, the reasons for the imprisonment or detention, the date of the arrest, the authorizing authority, the court ruling and personal information concerning them and their families is to be recorded in bound, numbered and tabulated registers and in an electronic database. The information is to be held in the computer of the facility in question as well as in the central computer of the Department of Corrections.” The competent authorities can, acting within their legal mandates, make enquiries and request information about persons being held in Iraqi prisons. In the case of enquiries relating to cases of enforced disappearance, the Iraqi Department of Corrections can consult the “reception and release” section on the central computer to discover the whereabouts of the persons concerned then inform the requesting party accordingly.

Table 3

#### Number of cases of placement in detention for the years 2021, 2022 and 2023

<i>No.</i>	<i>Placements in detention</i>	<i>Year</i>
1	6 055	2021
2	7 768	2022
3	9 408	2023

128. In line with human rights principles governing inspections, the Ministry of Defence keeps records of detainees in all the units and formations under its authority, as follows:

- A register of persons in detention

- A register of persons who have been transferred
- A record of releases
- A record of detainees' medical examinations.

The following records are held by the Human Rights Directorate at the Ministry of Defence:

- A register of persons who have been enforcedly disappeared
- A register of follow-up on special procedures
- A database of persons in detention, to which all military units are required to contribute
- All registers of persons in detention at the Ministry of the Interior are constantly being monitored, verified and updated.

129. The Iraqi National Security Agency uses a modern database which it uses to exchange information with the relevant authorities. The database is updated on a daily basis, in accordance with the law, and safeguards are applied to the information it contains, in accordance with the Code of Criminal Procedure (Act No. 23 of 1971) and under the supervision of the courts.

130. The Investigation Directorate at the Counter-Terrorism Service has a database of arrested persons, which includes all the information required under article 17 (1) and (3) and article 22 (b) and (c) of the International Convention for the Protection of All Persons from Enforced Disappearance. Specialized personnel are responsible for updating that information on a daily basis.

131. The Public Prosecution Service in Kurdistan Region, in coordination and cooperation with the Independent Human Rights Commission, is rolling out a mechanism to regulate the arrest and conditional release of accused persons in cases that attract sentences of less than 3 years, in line with articles 109, 110 and 111 of the Code of Criminal Procedure.

## **Search for disappeared persons and return of remains**

### **Paragraph 23 of the concluding observations**

132. The National Committee for Missing Persons, the missing persons section at the Ministry of Justice and missing persons sections in other institutions are responsible for conducting searches and investigations when reports of missing persons come in from the relevant authorities. They then coordinate with security agencies, the courts and the executive in order to determine the fate of the missing persons concerned.

133. Technical teams from the Department for Mass Graves at the Martyr's Foundation search for missing persons on the basis of information the Department receives, be it reports from relatives of missing persons or reports from official bodies such as security agencies concerning newly discovered graves. Funds necessary for the operation of the Department for Mass Graves have been included among the allocations envisaged in the 2024 Budget Act.

134. The work of the teams investigating mass graves is supervised by a judge and, in accordance with correct legal procedures, no grave may be opened without the judge's authorization. The judge likewise oversees the release of the victims' remains to their families.

135. The Forensic Medicine Department of the Ministry of Health is conducting DNA tests to determine the identity of human remains recovered from mass graves and other locations. The Department then publishes its findings and preserves samples and human remains, in coordination with other departments involved in handing over victims' remains to their families.

136. Following a directive of the Prime Minister, the Government of Iraq has allocated ID 2 billion from its emergency reserves to support the Department of Forensic Medicine as it completes its efforts to identify the remains of the inmates of Badush prison. This will

enable the Department to fulfil its legally mandated tasks, identify the martyrs' remains and deliver them to their families.

137. A committee chaired by the deputy head of the Office of the Prime Minister has been formed under Administrative Order No. 24732 of 2024. Members of the committee include the Human Rights Adviser to the Prime Minister and representatives of the Ministry of Justice, the Ministry of the Interior, the Ministry of Health, the National Security Agency and the Martyrs' Foundation. The task of the committee is to oversee the Ministry of Health as it completes procedures to match genetic samples taken from victims of the Badush prison massacre and the Camp Speicher massacre, as well as from Yazidi and Turkmen victims, before handing over the remains to their families.

138. Teams from the Department for Mass Graves at the Martyr's Foundation are working with the Forensic Medicine Department to run campaigns at the national level with a view to gathering information concerning the remains of missing persons removed from mass graves, including victims of terrorism, victims of the former regime and victims of war.

Table 4

**Outcome of work in the field to collect information, gather samples and conduct interviews with the families of missing persons in 2023**

<i>No.</i>	<i>Governorate/State</i>	<i>Group</i>	<i>No. of forms</i>
1	Anbar	Tribe of Albu Nimr	104
2	Nineveh	Missing persons of Tall Afar	48
3	Karbala	Victims of the former regime	31
4	Dahuk	Yazidi community	110
5	Nineveh/Sinjar	Yazidi community	60
6	Nineveh	Missing persons of Hammam al-Alil	167
7	Nineveh	Missing persons of Hammam al-Alil	52
8	Germany	Yazidi community	39
9	Baghdad (Department headquarters)	Missing persons in general	113
<b>Total</b>			<b>724</b>

Table 5

**Statistics on the number of sites indicated to the Department as containing mass graves, opened and unopened, as of 11 October 2023**

<i>No.</i>	<i>Sites</i>	<i>Number</i>
1	Total number of sites	96
2	Number of sites opened	79
3	Number of sites remaining	17
4	Number of mass graves opened	158
5	Number of remains exhumed	4 291

**Statistics on the number of opened and unopened gravesites and graves (victims of terrorism and Da'esh)**

<i>No.</i>	<i>Sites</i>	<i>Number</i>
1	Total number of sites	121
2	Number of sites opened	48
3	Number of sites remaining	73
4	Number of mass graves opened	115
5	Number of remains exhumed	2 984

**Statistics on gravesites of victims of terrorism (before and after Da'esh)**

1	Unopened sites (crimes committed before 10 June 2014)	10
2	Unopened sites (crimes committed after 10 June 2014)	63

**Total number of sites before and after 2003**

1	Total number of sites	217
2	Total number of sites opened	127
3	Total number of sites unopened	90
4	Total number of graves opened	273
5	Total number of remains exhumed	7 275

Table 6

**Number of mass graves discovered during the first half of 2024**

No.	Governorate	Name of gravesite	Type of gravesite	Date of discovery
1	Anbar	Hamra military camp	Victims of terrorism	2024
2	Anbar	Tash (Mazraa)	Victims of terrorism	2024
3	Anbar	Habbaniyah	Former regime	2024
4	Baghdad	Karkh (Islamiyah)	Former regime	2024
5	Nineveh	Al-Jazeera complex	Victims of terrorism	2024
6	Samawah	Tall al-Shaykhiyah 2	Former regime	2024
7	Babel	Bab Mashhad	Former regime	2024
8	Wasit	Al-Sadreïn neighbourhood, Al-Kut St. (Badrah)	Victims of terrorism	2024
9	Kirkuk	Ghabat Al-Ba'ir, village of Misnaa, Al-Bakarah, Al-Sayyadah	Victims of terrorism	2024

Table 7

**Locations of opened mass graves and number of remains exhumed during the first half of 2024**

No.	Governorate	Name of site	Type of gravesite	No. of remains exhumed	Date opened
1	Baghdad	Karkh (Islamiyah)	Former regime	120	2024
2	Nineveh	Sinjar/Hardan	Victims of terrorism	6	2024
3	Babel	Bab Mashhad	Former regime	3	2024
4	Nineveh	Alo Antar	Victims of terrorism	Work in progress	2024

139. The Prime Minister takes a direct interest in the question of mass graves and the return of victims' remains to their families, particularly as regards martyrs of the massacres at Camp Speicher and Badush prison and, most recently, the graves at Alo Antar in Tall Afar district in the governorate of Nineveh.

140. Once the mass graves have been opened and the human remains exhumed, those remains are handed over to the Forensic Medicine Department. The Department then conducts genetic matching and opens a legal casefile for each corpse which is duly submitted to the Iraqi court with jurisdictional competence, regardless of who perpetrated the killing. It is then up to the court to identify the perpetrators of the acts, which constitute a violation of human rights.

141. A total of 74 mass graves were discovered in Kurdistan Region between 2004 and 2024. They date back to the era of the former regime and contain the remains of 3,257 victims.



Eighty-three mass graves have been discovered in Sinjar, including 50 which were discovered between 2019 and 2022, and 30 between 2022 and 2023. This is in addition to dozens of individual graves. The remains of 360 victims have been identified up to the present, distributed across 21 mass graves, and the authorities in the Region have returned the remains of 186 Yazidi victims to Kuju and Hardan.

142. The authorities in Kurdistan Region have taken 2,915 bone samples from the remains of victims discovered in mass graves. Those samples are now being kept at the Forensic Medicine Department. A further 650 samples were also taken, of which 187 from the bones of victims found in the Anfal cemetery and 203 from the remains of victims in the Barzan cemetery.

143. The Mass Graves Act No. 5 of 2006, as amended by Act No. 13 of 2015, criminalizes certain actions that are described in the Act. According to article 10, anyone who interferes with or opens a mass grave without authorization from the Ministry or the competent authorities is liable to a term of imprisonment if the action results in the loss or destruction of evidence that might serve to identify the victims or the perpetrators of an offence. Article 11 of the Act envisages penalties for anyone who hinders the competent authorities as they perform their task of searching for and excavating mass graves or who prevents them from carrying out that task. For its part, article 12 envisages penalties for anyone who violates the provisions of article 9 of the Act. The Act amending the Mass Graves Act also serves, *inter alia*, to penalize anyone who denies the existence of mass graves or denigrates the victims.

## **Definition of victims and reparations**

### **Paragraph 25 of the concluding observations**

144. The policy of the Federal Court of Cassation is to consider missing persons to be deceased two years after their disappearance and after the reporting of that disappearance on the part of relatives. If the persons concerned were abducted by terrorist groups there is a very high chance that they have been killed. In the case of terrorists against whom an arrest warrant has been issued, the court continues to pursue legal proceedings and the case is referred to the criminal court for it to hand down a sentence in absentia. Such persons are not considered to be deceased until their death has actually been proven, either by being killed in an armed confrontation or by dying a natural death. After that, the criminal case is terminated in accordance with the law.

145. Under the Iraqi Criminal Code, the term “victim” – although it does not appear in the text of the Code – refers to the party against whom the criminal act was perpetrated, including crimes against human freedom and inviolability. The same definition is upheld in the Code of Criminal Procedure. It should be noted, furthermore, that the definition of victim was extended under transitional justice laws in Iraq to include family members, who were affected by the crime committed against the direct victim and thus also became victims of the crime. The definition of victim as it appears in article 24 (1) of the Convention – the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance – has been taken up in the bill on enforced disappearance, which considers a victim to be the disappeared person and any natural person who has suffered harm or risk as a result of an enforced disappearance. In this way, the bill is consistent with article 24 of the Convention.

146. Whenever a criminal conviction is handed down for the crimes of abduction or enforced disappearance, the judge’s ruling includes a section on the victim’s right to apply to the civil courts for compensation for the damages suffered as a result of the crime. The civil courts are obliged to assess the appropriate compensation upon submission of the criminal court’s conviction of the offender. They have discretion to determine the value of the compensation in proportion to the seriousness of the crime and the extent of the damage caused to the victim.

147. On the subject of victims’ rights, article 203 of the Civil Code (Act No. 40 of 1951), as amended, addresses the matter of reparation and compensation for victims. Similarly, article 10 of the Code of Criminal Procedure (Act No. 23 of 1971) stipulates: “Anyone who

suffers direct material or moral harm as the result of a crime has the right to bring a civil action.”

148. Under article 49 of the Military Service and Retirement Act No. 3 of 2010 and Decree No. 88 of 1987 of the dissolved Revolutionary Command Council, the salaries of abducted military and civilian personnel are to continue to be paid until it has been proven or ruled that they are dead, at which point the pension rights of the deceased’s family will be recognized.

149. Article 2 of Act No. 20 of 2009 concerning compensation for persons affected by military operations, military errors and terrorist activities, as amended, stipulates: “The compensation envisaged in the present Act is to cover damages in the form of death, disappearance, abduction or injury that arise as a result of the operations and activities described in the Act.” The Act also includes provision for the formation of committees, as well as a system to challenge the decisions made by those committees, under the oversight of the administrative judiciary (the administrative courts of the Council of State), and it envisions financial compensation and other benefits and rights to be provided by the State as redress for loss of life or damage to limb or property.

150. Directive No. 4 of 2018 – issued to facilitate the enforcement of Article 2 of Act No. 20 of 2009 concerning compensation for persons affected by military operations, military errors and terrorist activities – stipulates that the file of a missing or abducted person must include “(b) A copy of a declaration from the competent court attesting to the status of ‘missing’ or ‘abducted’”.

151. The aforementioned Act No. 20 of 2009 does not discriminate between the persons covered by its provisions. It merely sets forth procedures to redress the damage caused to persons and their property, taking account of the degree of damage and the extent of injury or disability as a criterion for determining the concomitant rights and compensation. Given that such categories of persons deserve priority care, there is nothing wrong with the Act including provisions that reflect these criteria or that take account of victims’ personal circumstances – such as sex, gender identity, age, ethnic origin, social class or disability – in order to redress the harm they have suffered, provide them with redress and rehabilitation, and create an economic, psychological and healthcare environment that guarantees their safety and security and enables them to live dignified lives.

## **Declaration of absence**

### **Paragraph 27 of the concluding observations**

152. In its provisions regulating the search for disappeared persons, the bill on enforced disappearance also touches on the issue of regularizing their legal status. Under the bill, the relationship of such persons vis-à-vis social welfare, family law and property rights is to be dealt with in accordance with the conditions and procedures specified in the relevant laws.

153. The issue of disappearance is addressed in article 93 of the Welfare of Minors Act No. 78 of 1980, under which the courts can rule that a missing person is dead if there is conclusive evidence of death, if four years have passed since the person was declared missing or if two years have passed since the person was declared missing in circumstances that make it reasonable to presume that they have died.

154. Article 1 (1) of the Social Protection Act No. 11 of 2014 defines the categories of families and individuals who are below the poverty line and are eligible for the social protection subsidy, among whom figure, in subparagraph (b), “the wife of a missing person”. Article 2 (2) (d) of Directive No. 8 of 2017 for the implementation of the Social Protection Act No. 11 of 2014 includes provision for “a court ruling declaring a person as missing, on behalf of that person’s wife”. Thus, the subsidy can be disbursed to the wife of a missing person once his status as missing has been upheld by a court ruling.

## Interaction of the State party with the Committee in the context of the Committee's urgent action procedure (article 30)

### Paragraph 29 of the concluding observations

155. The task of the missing persons section is to discover the fate of enforcedly disappeared persons, in accordance with international standards.

156. The section has a search mechanism which it uses to investigate the reports of enforced disappearance it receives from the Committee, in which regard it coordinates with the following bodies:

- The Supreme Judicial Council, the Ministry of the Interior, the Ministry of Defence, the Counter-Terrorism Service, the National Security Agency, the National Intelligence Service, the National Security Advisory, the Popular Mobilization Forces, the Ministry of Migration and Displaced Persons, the Ministry of Health (Forensic Medicine Department), the Ministry of Labour and Social Affairs, the Iraqi Department of Corrections, the Martyrs Foundation and the Kurdistan Regional representation.
- In each case, the missing persons section transmits the following information: Full name, nationality, date of birth, mother's name, residential address, number of civil status card, marital status, date of disappearance, place of disappearance, physical description, employment, etc. Each incoming case is loaded into the section's database and the information available concerning the fate of the person in question and any legal measures taken is transmitted to the Committee.

157. The National Committee for Missing Persons is a mechanism that operates at the national level and brings together all bodies involved in the search for missing persons. The National Committee – which is chaired by the Ministry of Justice and has members from the judiciary, the security services and the executive – is responsible for fulfilling the international obligations of Iraq vis-à-vis missing persons under the International Convention for the Protection of All Persons from Enforced Disappearance and the relevant national legislation. This covers all cases of missing persons, including those brought before the Working Group on Enforced or Involuntary Disappearances and the United Nations Committee on Enforced Disappearances.

158. Iraq gives great importance to its cooperation with the Committee on Enforced Disappearances. The recommendations that emerged from the discussions on its report containing additional information have been included in the national human rights plan (2021–2025) where they constitute a programme of action for official institutions as they work to fulfil the country's international obligations.

159. The Ministry of Justice has formed a central committee – headed by the Ministry and with a membership made up of other stakeholders – to receive special rapporteurs. The committee is responsible for examining and deciding on visit requests, developing a plan of action to welcome United Nations special rapporteurs and experts who wish to come to Iraq, drawing up an agenda and proposals on appropriate dates for visits and submitting that information to the Secretariat of the Council of Ministers for it to make a final decision and to define other relevant conditions.

160. This central committee on special rapporteurs was able to welcome a delegation from the United Nations Committee on Enforced Disappearances, led by Ms. Carmen Rosa Villa Quintana, which visited Iraq from 12 to 24 November 2022. During the visit, the central committee was active in coordinating visits by the delegation to a number of ministries, official institutions, prisons and detention centres in Baghdad and in Kurdistan Region.

161. Iraq has cooperated effectively with the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD) in the investigation of crimes, including abductions, committed by Da'esh after 10 June 2014. In this connection, a working group was formed under Administrative Order No. 296 of 2019 to develop an operational mechanism and channels of cooperation to enable UNITAD to complete its investigations and refer them to the courts, in line with

Security Council resolution 2379 (2017). It should be noted that Security Council resolution 2697 (2023) brought an end to the activities of UNITAD on 17 September 2024, and that the tasks of UNITAD are to be taken over by Iraq.

162. The Kurdistan Regional Government – in the context of the activities of the working group to coordinate with UNITAD between June and October 2023 – has archived 161,209 pages of documents pertaining to 2,225 cases from the second criminal court of Erbil, which include cases involving crimes committed by Da’esh from 2014 onwards. It has also archived 124,507 pages from cases before the court of appeal in Sulaymaniyah while the archiving process is nearing completion at the court of appeal in Karmiyan (Kirkuk) and is expected to be finished by the end of August 2024. By that time more than 500,000 page of documents relating to Da’esh crimes will have been archived and digitized, in accordance with international standards.

---