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Iraq: Hundreds Detained in Degrading Conditions - Over 1,200 ISIS Suspects in Filthy Overcrowded Jails

(Erbil) – The [Iraqi](#) interior ministry is holding at least 1,269 detainees, including boys as young as 13, without charge in horrendous conditions and with limited access to medical care at three makeshift prisons, Human Rights Watch said today. At least four prisoners have died, in cases that appear to be linked to lack of proper medical care and poor conditions and two prisoners' legs have been amputated, apparently because of lack of treatment for treatable wounds.

Two detention centers are in the town of Qayyarah, 60 kilometers south of Mosul, and the third at a local police station in Hammam al-Alil, 30 kilometers south of Mosul. At least one detainee has been held in Qayyarah for six months, with many others detained since November 2016. According to the Qayyarah prison staff, at least 80 of their detainees are children under 18, with the youngest being 13. Children are in Hammam al-Alil as well.

"The deplorable prison conditions in Qayyarah and Hammam al-Alil show that the Iraqi government is not providing the most basic detention standards or due process," said [Sarah Leah Whitson](#), Middle East director at Human Rights Watch. "Iraqis should understand better than most the dangerous consequences of abusing detainees in cruel prison conditions."

On March 3, 2017, Human Rights Watch visited two of three houses in Qayyarah the Iraqi government has been using since retaking the area in August to detain men and boys suspected of being affiliated with the Islamic State (also known as ISIS). On March 12, researchers visited the local police station at Hammam al-Alil, which is holding 225 people accused of varying crimes, including ISIS-affiliation, in four rooms. Human Rights Watch was unable to interview detainees, but spoke to prison staff.

The prisons are under the authority of the Interior Ministry's intelligence service, which provides services there together with the Justice Ministry. Staff said that Iraqi security and military services combatting ISIS hand over people they detain to the intelligence service, which holds the detainees in the facilities while individually interrogating them.

The intelligence service then takes the detainees before an investigative judge to assess whether there is enough evidence to bring charges for supporting ISIS under Provision 4 of the Federal Iraqi Counterterrorism Law (no. 13/2005). The judge then either orders their release or transfers the detainees to Baghdad to face charges.

Prison staff in Qayyarah said they had released about 80 detainees and transferred another 775 to Baghdad by early March 2017. Iraq's Criminal Procedural Code (no. 23/1971) requires detaining authorities to bring detainees before an investigative judge within 24 hours. But Qayyarah prison staff said they had held some

detainees for as long as four months, while Human Rights Watch learned of the case of the man held without charge for six months.

Prison staff in Qayyarah said that the investigative judge had cleared at least 300 men for release who are now being held unlawfully after the National Security Service, a security body under the prime minister with a mandate to screen people fleeing ISIS-controlled areas, intervened. Security forces' failure to comply with a judicial order for release is a crime under Iraqi law. If the security forces are failing to comply with judicial orders in a systematic manner as part of a state policy to ignore such orders and detain people arbitrarily, this could represent a crime against humanity.

Prison staff in Hammam al-Alil said they had released 115 detainees and transferred another 135 to Baghdad. They said they have been holding at least 60 men since the detention site opened in November, 2016.

The prison staff and Justice Minister, Haidar al-Zamili, who met with Human Rights Watch on February 2, 2017, said that detainees held on terrorism charges have no right under the counterterrorism law (no. 13/2005) to communicate with their family during the investigation period, and that the Qayyarah detainees have not been allowed to communicate with their families. A local judge overseeing the cases told Human Rights Watch that once a detainee has been brought before the investigative judge, they have the right to contact their families, but that family visits are being delayed because of the delays in bringing detainees before the judge.

They also said that despite the Iraqi constitution and Criminal Procedure Code (no.23/1971) guaranteeing detainees the right to a lawyer during interrogations and hearings, none had been provided with a lawyer present during their interrogations and many did not have a lawyer during their hearings before the investigative judge.

Human Rights Watch observed that the facilities are all extremely overcrowded, so that no detainee can lie down to sleep. Because of the overcrowding and lack of proper ventilation, the makeshift prison cells are overheated, with an incredible stench. Detainees at the Hammam al-Alil prison called out to the visiting Human Rights Watch researchers, begging them to crack open the door because they said they could not breathe. The detainees have either no time or minimal time outside their cells, eat inside their cells, and have no access to showers and limited access to bathrooms. The facilities have no medical support, contributing to the deaths and amputations, prison staff said.

While the staff said they were trying to improve conditions, they could not reduce the overcrowding. The overcrowding may have been exacerbated due to a temporary freeze, in early 2015, on transfers of prisoners to Baghdad due to the cost of such transfers, a Qayyarah court official told Human Rights Watch on March 11, 2017. He said that the transfers had resumed in mid-January. Prison staff in Hammam al-Alil said that on March 11, they were asked to accept another 11 prisoners but refused, saying there was simply no more room.

One interrogator in Hammam al-Alil said that he sometimes beats ISIS suspects, and an observer who visited the prison in February 2017 said he witnessed the ill-treatment of three detainees.

Detainees charged and convicted may still be entitled to release under the General Amnesty Law passed in August 2016 (no.27/2016), staff said. The law offered amnesty to anyone who joined ISIS or another extremist group against their will, and did not commit any serious offense, like torture or killing. The head of the Iraqi parliament's legal committee, Mohsen al-Karkari, told Human Rights Watch during a meeting on February 7, 2017, that it was a roundabout way to [limit the scope of the wide-reaching Iraqi counterterrorism law and release of thousands of terror suspects](#). According to the Justice Ministry, authorities have [released 756 prisoners since the law was passed](#).

Human Rights Watch learned from a reliable source that the Iraqi government had sent a committee to review conditions in the facility a few weeks before the Human Rights Watch visit. The committee promised to send up to 20 more interrogators from Baghdad, to speed up investigations. On March 2, 2017, 10 interrogators had arrived at the Qayyarah prisons.

The evidence documented by Human Rights Watch strongly suggests that conditions at the Qayyarah and Hammam al-Alil facilities are hazardous, unfit to hold detainees for extended periods of time, and do not meet basic international standards. As a result, holding detainees there probably amounts to ill-treatment. The state of the facilities and severe understaffing pose severe risks to the prisoners, the prison administration, and the local community.

The authorities should transfer all detainees from these facilities to official prisons built to accommodate detainees, and equipped to meet basic international standards. Until that happens, the Interior and Justice Ministries should, as an urgent priority, improve the conditions, and speed up the investigative process so that it can transfer the prisoners out of the facility as quickly as possible. The ministries should provide all detainees a medical screening upon arrival, and ensure access to medical care.

The authorities should also ensure that there is a clear legal basis for detentions, that all detainees have access to legal counsel, including during interrogation, and that detainees are moved to facilities accessible to government inspection, independent monitors, relatives, and lawyers, with regular and unimpeded access. They should immediately notify families of the detention of their loved ones and under which authority, promptly take detainees before a judge to rule on the legality of their detention, and immediately comply with any judicial order for release.

Judges should order the release of detainees or prisoners being held in inhuman or degrading conditions.

When prosecuting children alleged to have committed illegal acts, they should be treated in accordance with international juvenile justice standards. International law allows for authorities to detain children pretrial in limited situations, but only if formally charged with committing a crime, not merely as suspects. The authorities should release all children not yet formally charged.

“The Iraqi authorities should immediately release the children it is holding in these hellholes unless they promptly charge them with a crime,” Whitson said. “Iraq should recognize and treat children accused of ISIS affiliation as the victims of illegal and unconscionable recruitment and exploitation by the group.”

International Law on Detention

International law governing the treatment of prisoners strictly prohibits cruel, inhuman, or degrading treatment or punishment. The international norms regarding prison conditions are set out in the [United Nations Standard Minimum Rules for the Treatment of Prisoners](#) (the “Mandela Rules”). The rules require that “[a]ll accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”

They also state that, “[t]he sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner,” and that “[a]dequate bathing and shower installations shall be provided.” “The provision of health care for prisoners is a state responsibility. Prisoners should enjoy the same standards of health care that are available in the community,” the rules state. Rule 58 protects a prisoner’s right to receive visits “at regular intervals” from family and friends.

Under Iraqi law, the High Judicial Council is responsible for monitoring prison conditions, while the ministries in charge of facilities are responsible for maintaining the conditions inside. The High Judicial Council should fulfill its mandate in monitoring these facilities. Iraq should ratify the Optional Protocol to the Convention against Torture allowing independent international experts to conduct regular visits to places of detention in Iraq and provide for the creation of an independent inspectorate.

Special Provisions Regarding Child Detainees

In particular, children should enjoy full due process guarantees, including access to counsel, the right to challenge their confinement, contact with their families, and separation from adult detainees. Any punishment for criminal offenses should be appropriate to their age, and be aimed at their rehabilitation and reintegration into society.

It is important to note that some of the child detainees may have committed acts of violence while simultaneously being victims of ISIS. [The Office of the Special Representative of the Secretary-General \(SRSG\) for children and armed conflict said in 2011](#) that when dealing with children who took part in armed groups “more effective and appropriate methods, other than detention and prosecution are encouraged, enabling children to come to terms with their past and the acts they committed.”

The government should also consider how to treat children accused of membership in a group like ISIS, but not of any specific violent act. In 2016, the UN secretary-general criticized countries for responding to violent extremism by [administratively detaining and prosecuting children](#) for their alleged association with such groups. He noted that such deprivation of liberty is contrary to the best interests of the child and can exacerbate community grievances.

The special representative of the secretary-general for children and armed conflict, Leila Zerrougui, has also stated that child soldiers should not be prosecuted “simply for association with an armed group or for having participated in hostilities.” Many countries worry that children who are ISIS members pose a future threat. But prosecution and detention of a child should always be a measure of last resort, and the purpose of any sentence should be to rehabilitate and reintegrate the child into society.

Qayyarah Prisons

In one Qayyarah detention facility, a room approximately 4 by 6 meters held 114 men, and in the other a room 3 by 4 meters held 38. They have no furniture or mattresses, with insufficient space for detainees to lie down to

sleep. One prison houses 374 detainees within six rooms. The other facilities are smaller. The room with 114 detainees has a single toilet and blocked off windows. It had no ventilation system until early March 2017, when the prison director broke two small holes in the walls and installed ventilation fans. Despite these improvements, the smell is overwhelming. The detainees in the other five rooms share another single toilet.

The second prison houses 270 detainees in a building that was hit by a projectile while the area was under ISIS control, with a hole in the hallway roof. Staff said the building is unstable and could collapse at any moment. The room Human Rights Watch saw has windows boarded up with only a small hole, from which detainees have thrown dozens of water bottles filled with their urine. The heat and smell are staggering. Staff members are building another room connected to the building to hold some of the detainees.

The prisons that hold 374 and 400 detainees respectively each only has one guard at any given time. The prison holding 270 has two because the single toilet is a pit in the yard, which opens into a main road, so a guard accompanies prisoners to the toilet. Staff said they took the prisoners out into the yard for 10 to 20 minutes a day, but allowed them only to sit, not walk around.

None of the three prisons have showers. The prisoners eat in the rooms.

Prison staff said they recently decided to hold child detainees separately. But Human Rights Watch was not allowed to visit a third building where staff said the child detainees were held.

Prison staff said that while conditions in the third building are slightly better, with less overcrowding, they do not allow the children to leave their cell. They have no opportunities for activities, exercise, diversion, education, or contact with their families. The only exception is for a small number who provide uncompensated labor for the prison staff by distributing food and water, including to the adult prisoners.

Staff said that until January 2017, the food served to detainees was inedible, and that the head of the prison finally refused to serve it, telling officials at the Justice and Interior Ministries that he would start buying food from his personal funds for the detainees. This finally triggered the ministries to send more support for better food. Now the detainees get three varied meals a day, prison staff said.

Staff told Human Rights Watch that despite repeated requests to the Baghdad authorities, the government had not provided any medical support to the prisons for months. The first two visits by doctors from the local branch of the health department were in early March 2017. Sources said that the doctors then suspended their visits, but did not know why. They said that two detainees had entered with what they believed to be treatable wounds, but they were not given access to timely medical care and eventually each had needed to have a leg amputated.

The family of one prisoner, Ali Muhammad Atiya, 41, a former grocer, told Human Rights Watch that when Iraqi forces retook Qayyarah in August 2016, *Counterterrorism Service* officers came to their home and detained Atiya for several hours. Four days later, intelligence officers returned and detained him, telling his son that the father had been affiliated with ISIS. The family said staff did not allow them to visit him, but that an intelligence officer told them that although an investigative judge ordered his release, he remained detained. In early February, a neighbor told them he had been at a hospital in Qayyarah, and had seen Atiya arrive there for treatment. Atiya's mother went to the hospital, where medical staff told her he had severe diarrhea from dehydration. She spent five days with him and said he was very sick and weak and finally died. When Human Rights Watch interviewed the family, they had yet to receive the results of the forensic examination.

Staff told Human Rights Watch there were ongoing efforts to install air coolers and ventilation systems. During the week of March 12, 2017, they cleaned all the rooms for the first time to address an outbreak of scabies, allowed all the prisoners to shower in makeshift facilities set up on that day, and set up sanitation facilities for each building.

Hamam al-Alil Prison

Human Rights Watch visited two of the four prison rooms in the police station, one 6 by 4 meters, holding 72 men, and the other 7 by 4 meters, holding 103. They have no furniture or mattresses, with insufficient space for detainees to lie down to sleep. The prison houses 225 detainees, including three women in a separate cell, with about 50 of the 255 on ISIS-affiliation charges.

The male detainees share six toilets in unsanitary conditions, with sinks blocked with dirty water, and no showers. The windows in the two rooms visited have been blocked off, with a small hole for a ventilator fan in each. The smell is overwhelming. Prison staff said that the ministries are not providing water for the bathroom, and that the director is trading fuel and other items in exchange for water from local authorities.

Prison staff said that the ministries did not provide any food for the detainees for the first several weeks after the facility opened, and that the staff had to ask the families of detainees to bring food that was then shared among all the detainees.

Staff said they did not know how many detainees were under 18, but said there were a considerable number, in cells with the adults. They said the youngest was 13. The child detainees have no opportunities for activities, exercise, diversion, education, or contact with their families.

Staff said that despite repeated requests to the Justice Ministry, Baghdad had not provided any medical support. They said one detainee with diabetes came to the prison in November 2016 after being held and not properly fed for 11 days in Qayyarah prison. They took him to the local clinic, but he died within days. Another prisoner arrived in November with gangrene in both his legs. In December, staff took him to a local hospital to have both legs amputated, after which he returned to the unsanitary conditions of the prison cell. He died three months later, in late February 2017. Another overweight detainee died in early 2017 after complaining for many days that he was unable to breathe because of the stench and heat.

Staff said they allow one elderly prisoner to spend the nights in a separate, guard room, because the heat and stench of the cell is causing him serious breathing problems. When Human Rights Watch visited the cells, prisoners yelled out that they could barely breathe and begged staff to crack open the doors.

Prison staff said the total staff is 10 people including the guards and interrogators, and that no one cleans the bathrooms or cells. They said they allow the prisoners from two of the rooms to pass between the rooms and the connected bathroom several hours of the day, but are unable to allow the prisoners outside because the building has no gates, walls or fences.

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