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HRW – Human Rights Watch

World Report 2021 - Iraq

Arbitrary arrests, enforced disappearances, and extrajudicial killings of demonstrators by Iraqi security forces in late 2019 and into 2020 led to government resignations and the nomination of a new prime minister, Mustafa al-Kadhimi, in May 2020. Despite an initial seeming [willingness](#) to [address](#) some of Iraq’s most [serious](#) human rights [challenges](#), al-Kadhimi’s government failed to end abuses against protesters.

Iraq’s criminal justice system was riddled with the widespread use of torture and forced confessions and, despite serious due process violations, authorities carried out numerous judicial executions.

Iraqi law contained a range of defamation and incitement provisions that authorities used against critics, including journalists, activists, and protesters to silence dissent.

The Covid-19 pandemic had a particularly harmful impact on students kept out of school for months during nationwide school closures, many of whom were unable to access any remote learning.

Excessive Force against Protesters

In a wave of [protests](#) that began in October 2019 and continued into late [2020](#), [clashes](#) with security forces, including the Popular Mobilization Forces (PMF or *Hashad*, nominally under the control of the prime minister), left at least 560 protesters and security forces [dead](#) in Baghdad and Iraq’s southern cities.

In July 2020, the government [announced](#) it would compensate the families of those killed during the protests and that it had [arrested](#) three low-level security forces officers. As far as Human Rights Watch is aware, no senior commanders have been prosecuted. After a spate of killings and attempted killings of [protesters](#) in Basra in August 2020, the government [fired](#) Basra’s police chief and the governorate’s director of national security but seemingly did not refer anyone for prosecution. In May 2020, when Prime Minister Mustafa al-Kadhimi took office, he [formed](#) a committee to investigate the killings of protesters. It had yet to announce any findings publicly as of late 2020.

In May, security forces in Iraq’s Kurdistan Region [arrested](#) dozens of people planning to participate in protests against delayed government salaries, a persistent issue since 2015. At August 2020 protests by civil servants in the Kurdistan Region demanding unpaid wages, Kurdistan Regional Government (KRG) security forces beat and arbitrarily detained protesters and [journalists](#).

Silencing Free Speech

Iraq’s penal code, which dates back to 1969, enshrines numerous defamation “crimes,” such as “insult[ing] the Arab community” or any government official, regardless of whether the statement is true. Although few individuals served prison time on defamation charges, the criminal process itself acted as a punishment. Reporting on corruption and abuses by the security forces was especially risky.

Authorities also invoked other laws and regulations to limit free speech. The Communications and Media Commission (CMC), a “financially and administratively independent institution” linked to parliament, in 2014 [issued](#) without legal basis “mandatory” guidelines to regulate media during “the war on terror”—a phrase it did not define. These guidelines were updated in May 2019 and renamed the [“Media Broadcasting Rules.”](#) They restrict freedom of the press to the point of requiring pro-government coverage.

The CMC [suspended](#) Reuters’s license under its broadcast media regulations powers for three months and fined it 25 million IQD (US\$21,000) for an April 2, 2020 article alleging that the number of confirmed Covid-19 cases in the country was much higher than official statistics indicated. Authorities [lifted](#) the suspension on April 19.

The KRG used similar laws in force in the Kurdistan Region [to curb free speech](#), including the [penal code](#), the [Press Law](#), and the [Law to Prevent the Misuse of Telecommunications Equipment](#).

Civil society efforts were successful in preventing passage of a deeply flawed [cybercrimes bill](#) in November.

Arbitrary Detention

Iraqi forces arbitrarily detained Islamic State (also known as ISIS) suspects for months, and some for years. According to witnesses and family members, security forces [regularly](#) detained suspects without any court order or arrest warrant and often did not provide a reason for the arrest.

Iraqi authorities also [arbitrarily](#) detained protesters and released them later, [some](#) within hours or days and others within weeks, [without](#) charge.

Despite requests, the central government failed to disclose which security and military structures have a legal mandate to detain people, and in which facilities.

Fair Trial Violations

In January 2020, the UN Assistance Mission in Iraq (UNAMI) published a [report](#) assessing the criminal justice system, based on independent monitoring of 794 criminal court trials, 619 of them for men, women and children charged under Iraq’s dangerously overbroad counterterrorism law. It supported Human Rights Watch [findings](#) that basic fair trial standards were not respected in terrorism-related trials.

Iraqi judges routinely [prosecuted](#) ISIS suspects solely on the overbroad charge of ISIS affiliation, rather than for the specific violent crimes they may have committed. Trials were generally rushed, based on a defendant’s confession, and did not involve victim participation. Authorities [systematically](#) violated the due process rights of suspects, such as guarantees in Iraqi law that detainees see a judge within 24 hours and have access to a lawyer throughout interrogations, and that their families are notified and should be able to communicate with them during detention.

Detainees have shared graphic accounts of [torture](#) during interrogations in Mosul’s prisons under the control of the Ministry of Interior, in some cases leading to their [deaths](#). These allegations are consistent with [reports](#) of the widespread use of [torture](#) by Iraqi forces to extract confessions instead of carrying out robust criminal investigations.

Authorities can prosecute child suspects as young as 9 with alleged ISIS affiliation in Baghdad-controlled areas and 11 in the KRI, in [violation](#) of international standards, which recognize children recruited by armed groups primarily as victims who should be rehabilitated and reintegrated into society, and call for a [minimum age of criminal responsibility](#) of 14 years or older. One Mosul committee [improved](#) its handling of the prosecution of child suspects.

Conditions in Detention

Authorities detained criminal suspects in overcrowded and in some cases inhuman conditions. According to media reports, authorities [released](#) 20,000 prisoners in April as a preventive measure in response to the Covid-19 pandemic but did not share any [information](#) on the identities of those released and the criteria for selecting them. Authorities refused to respond when asked to share or make public the number of people in Iraqi prisons, making it impossible to assess whether the releases sufficiently reduced the acute overcrowding to enable social distancing. In July, there were 31 Covid-19 cases reported at a [prison](#) in Baghdad.

Death Penalty

Iraq had one of the highest [rates](#) of executions in the world, alongside China, Iran, and Saudi Arabia. The judiciary handed down death sentences to many of those convicted of ISIS affiliation under counterterrorism legislation and carried out executions without disclosing official numbers. In August 2019, authorities released Ministry of Justice data that showed 8,022 detainees were on death row and the state had [executed](#) over 100 between January and August 2019 but did not provide statistics for 2020. In late November authorities reportedly [hanged](#) at least 21 detainees on death row.

The [expedited nature](#) of the trials of ISIS suspects contributed to concerns that courts were issuing death sentences despite serious due process shortcomings.

In the Kurdistan Region, the KRG has maintained a de facto [moratorium](#) on the death penalty since 2008, banning it “except in very few cases which were considered essential,” [according](#) to a KRG spokesperson.

ISIS Crimes Against the Yezidi Community, including Sexual Violence

Despite ISIS’s [system](#) of organized [rape](#), sexual slavery, and [forced marriage](#), and even where defendants admitted during prosecutions to subjecting Yezidi women to sexual slavery, prosecutors neglected to charge them with rape, which carries a sentence of up to 15 years. Instead, they charged them with ISIS membership, support, sympathy, or assistance under counterterrorism legislation.

On April 7, 2019, President Barham Salih submitted a draft [Yezidi Female Survivors Law](#) to parliament. The law aims to rehabilitate, reintegrate, and provide economic empowerment to Yezidi female survivors, and states it will provide “symbolic recognition of the genocide committed against Yezidis.” However, the draft law has shortcomings, such as restricting the definition of survivors to Yezidi women and girls who were kidnapped by ISIS and then released. It did not include men and boys, as well as survivors and victims of ISIS from other communities.

Collective Punishment

Security forces [denied](#) security clearances required to obtain identity cards and other essential civil documentation to thousands of Iraqi families the authorities perceived to have ISIS affiliation, usually because of their family name, tribal affiliation, or area of origin. This [denied](#) them freedom of [movement](#), their rights to [education](#) and work, and access to social benefits and birth and death certificates needed to inherit property or remarry.

For years authorities have prevented thousands of children without civil documentation from [enrolling](#) in state schools, including state schools inside camps for displaced people. They allowed some families to obtain a [security clearance](#) if they were willing to first open a criminal complaint [disavowing](#) any relative suspected of having joined ISIS. After individuals open the criminal complaint, the court issues them a document to present to security forces enabling them to obtain their security clearances. In late 2020, authorities launched efforts to close all camps housing displaced families, and in that context granted many more people security clearance and issued them new civil documentation. However, because they gave families in some cases only 24-hours notice that they needed to vacate camps they had lived in for years, some were effectively [stripped](#) of their access to food, water and health care and rendered homeless.

At least 30,000 Iraqis who fled Iraq between 2014 and 2017, including some who followed ISIS as it retreated from Iraqi territory, have been [held](#) in and around al-Hol camp in northeast Syria. In 2019 the Iraqi government [discussed](#) plans to return, transfer, and detain these and other families with perceived ISIS affiliation in a mass internment scheme in Iraq, but has yet to agree on such a plan. As of late 2020, it had taken no further measures regarding Iraqis held in northeast Syria.

The Kurdistan Regional Government (KRG) has prevented thousands of Arabs from returning home to villages in the [Rabia](#) subdistrict and [Hamdaniya](#) district, areas where KRG forces had pushed ISIS out in 2014 and taken territorial control. At the same time, the KRG allowed Kurdish villagers to return to those areas.

Women’s Rights, Gender Identity, Sexual Orientation, Morality Laws

Article 394 of Iraq’s penal code makes it [illegal](#) to engage in extra-marital sex, a violation of the right to privacy that disproportionately harms lesbian, gay, bisexual, and transgender (LGBT) people, as well as women, as pregnancy can be deemed evidence of the violation. Women reporting rape can also find themselves subject to prosecution under this law. Iraq’s criminal code does not explicitly prohibit same-sex sexual relations, but article 401 of the penal code holds that any person who commits an “immodest act” in public can be imprisoned for up to six months, a vague provision that could be used to target sexual and gender minorities, although such cases have not been documented.

Over the years authorities have not held accountable [perpetrators](#), including [security forces](#), of [kidnappings](#), [torture](#), [and killings](#) of people [perceived](#) as gay and transgender. A 2012 government committee established to address abuses against LGBT people took [few tangible steps](#) to protect them before disbanding.

Domestic violence continued to remain endemic in 2020, including the [killings](#) of women and girls by their families and husbands.

While Iraq’s criminal code criminalizes physical assault, article 41(1) gives a husband a legal right to “punish” his wife and parents to discipline their children “within limits prescribed by law or custom.” The penal code also provides for mitigated sentences for violent acts, including murder, for “honorable motives” or for catching one’s wife or female relative in the act of adultery or sex outside of marriage. Iraqi parliamentary [efforts](#) to pass a [draft law against domestic violence](#) [stalled](#) throughout 2019 and 2020. The 2019 version of the draft anti-domestic violence law seen by Human Rights Watch includes [provisions](#) for services for domestic violence survivors, protection (restraining) orders, penalties for their breach, and the establishment of a cross-ministerial committee to combat domestic violence. However, the bill has several gaps and provisions that would [undermine](#) its effectiveness, including that it prioritizes reconciliation over protection and justice for victims.

Education

Schools were closed in March 2020 through the end of the school year in the Kurdistan Region, with schools in Baghdad-controlled territory closed from March through November 2020, due to the Covid-19 pandemic. According to teachers, parents, and students, children living in poverty, and families displaced from their homes by earlier fighting between Iraqi forces and ISIS were most disadvantaged, as most lacked access to digital learning options. The loss of education during this period had a more dramatic impact on the many children who had lost three academic years before the pandemic when living under ISIS.

Key International Actors

Relations with the United States, a key partner in the fight against ISIS, came under strain. In 2019 and 2020, unnamed groups carried out multiple rocket attacks on US targets in Iraq. In [response](#) to one of those attacks, on January 3, 2020, a US drone strike killed Lt. Gen. Qassem Soleimani, the Quds Force commander of Iran’s Islamic

Revolutionary Guards Corps, at Baghdad airport. Two days later, Iraqi parliamentarians passed a non-binding resolution to expect US-led coalition troops from the country, which was not acted upon. In August, the Pentagon announced that it would be [cutting](#) the US force presence in Iraq by one third, to about 3,500 troops. **ecoi.net summary:**
Annual report on the human rights situation in 2020

In the US Fiscal Year 2020, the US Congress [allocated](#) \$451 million in military assistance to Iraq, including through Foreign Military Financing, International Military Education and Training, and other programs. The US Congress also appropriated \$745 million in defense funding for Iraq programs under the Counter-ISIS Train and Equip Fund, and authorized another \$30 million for the Office of Security Cooperation at the US Embassy in Baghdad, which [helps](#) administer training and support programs funded through foreign military sales and foreign military financing assistance. **HRW, Human Rights Watch**

Original title: In April 2020, the US State Department [announced](#) an increase in humanitarian assistance to Iraq, bringing the total to more than \$706 million since October 2018, as well as an additional \$49.5 million in Covid economic relief. **Document ID:** 2043505
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Iran wields significant political influence in Iraq, largely through [political parties and some armed groups within the country](#). Iraq also relies on Iran for [natural gas](#), among other vital imports.

Turkish [airstrikes](#) throughout 2020, targeting the Iranian Kurdish Party for Free Life of Kurdistan (PJAK) and members of the Kurdistan Workers' Party (PKK) based in northern Iraq, [killed over a dozen civilians in the region](#). Human Rights Watch was unaware of any investigations by the Turkish authorities into possible laws-of-war violations in northern Iraq or compensation of victims. **Published:**

13 January 2021
 In 2017, the UN Security Council created an investigative team to document serious crimes committed by ISIS in Iraq. Given the deeply flawed Iraqi criminal proceedings against ISIS suspects and ongoing fair trial concerns in the country, it remained unclear to what extent the team could support the Iraqi judiciary in building case files in line with international standards.

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