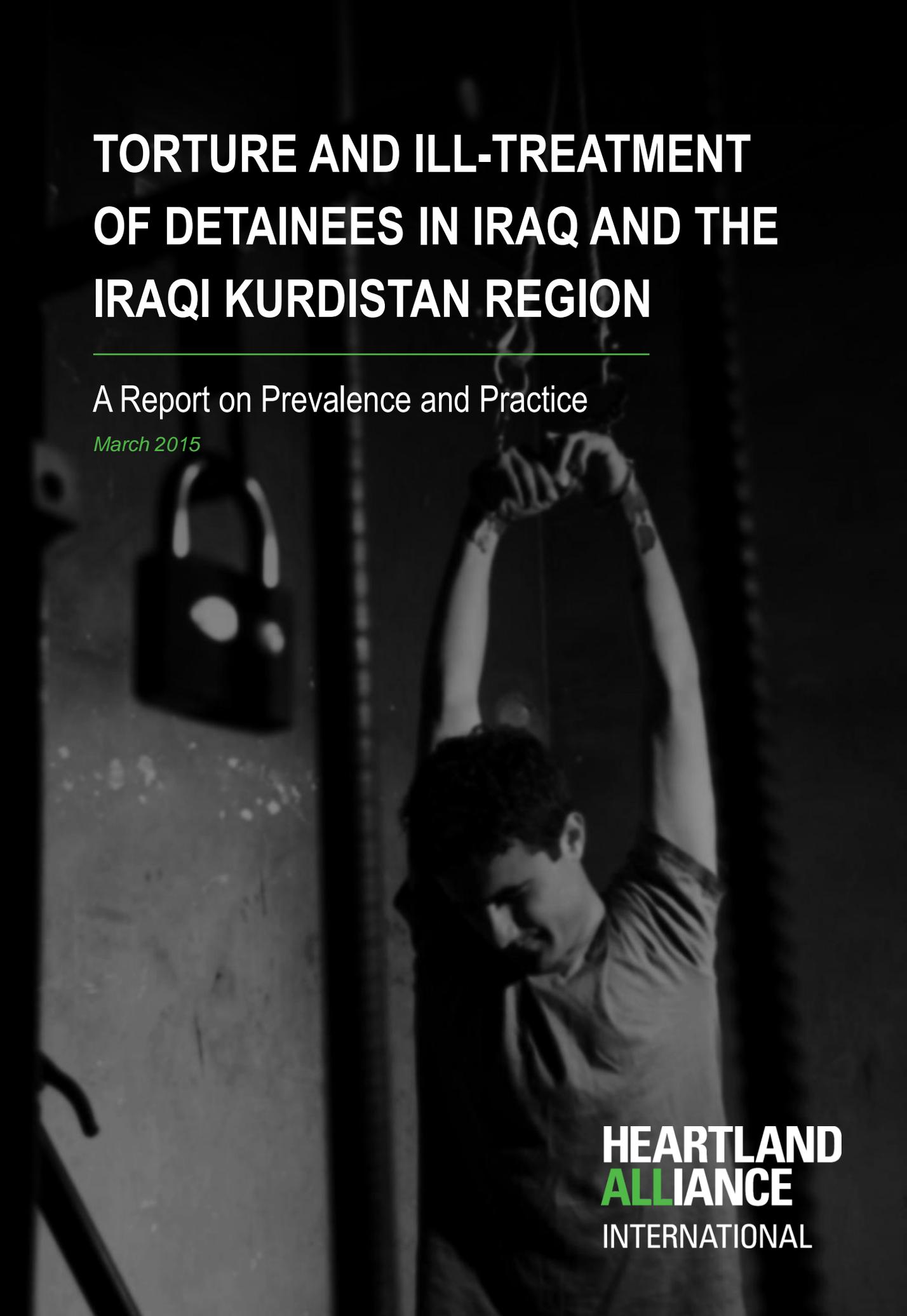


# TORTURE AND ILL-TREATMENT OF DETAINEES IN IRAQ AND THE IRAQI KURDISTAN REGION

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A Report on Prevalence and Practice

*March 2015*



**HEARTLAND  
ALLIANCE**  
INTERNATIONAL



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*This report is prepared by Heartland Alliance International  
in collaboration with the Democracy and Human Rights  
Development Center, WCHAN Organization for Victims  
of Human Rights Violations, and others.*

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## INTRODUCTION

*“Torture is not just alive and well – it is flourishing in many parts of the world. As more governments seek to justify torture in the name of national security, the steady progress made in this field over the last thirty years is being eroded.”<sup>1</sup>*

On July 7, 2011, Iraq acceded<sup>2</sup> to the United Nations *Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment* (UNCAT) that prohibits the use of torture under international law and requires state parties to take effective measures to prevent it. In addition, torture is prohibited under Iraqi law. Nevertheless, as in many other parts of the world, legal and human rights violations are still widespread in the detention centers and prisons of Iraq and the Iraqi Kurdistan Region (IKR). Although torture and mistreatment may be a legacy of former Ba’athist Regime in Iraq, the current Iraqi and Iraqi Kurdish governments are now responsible and accountable for the treatment of individuals at all levels of arrest, interrogation, trial, and imprisonment, within the territories under their effective control.

To understand the prevalence and nature of torture in Iraq and the IKR, Heartland Alliance International (HAI)<sup>3</sup> and its local NGO partners, the Democracy and Human Rights Development Center (DHRD) in the IKR and a counterpart local NGO in Baghdad<sup>4</sup>, conducted a survey among 405 detainees and ex-detainees<sup>5</sup> throughout the country. The survey covered the following topics<sup>6</sup>:

- Circumstances surrounding detention
- Purpose of detention
- Conditions of detention
- Compliance with legal procedure
- Questions for persons who indicated that they had been subjected to abuses
  - Methods of abuse
  - Types of abuses and injuries
- Medical and psychological resources provided in detention

The results of the survey demonstrate that torture and ill-treatment of detainees continues to be prevalent in Iraq and the IKR and is carried out by Iraqi and Iraqi Kurdish government officials as a means of interrogation and control, in clear violation of national law and the UNCAT.

The survey revealed that 59% of interviewees in the IKR and 70% in Baghdad alleged to HAI torture and ill-treatment during one or more phases of the criminal judicial system. The majority of interviewees declared that they have been subjected to torture or ill-treatment during the interrogation phase. The survey also demonstrates the extent to which individuals arrested and detained are being deprived of other rights accorded to them under Iraqi and international law.

Although Iraqi law prohibits the practice of torture and ill-treatment, there are aspects of the law that need to be amended or strengthened to ensure that Iraq fully complies with its obligations under the UNCAT and more effectively prevents the practice of torture and ill-treatment in Iraq and the IKR.

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<sup>1</sup> According to a recent report by Amnesty International, torture occurs in 141 countries throughout the world. <http://www.amnesty.eu/en/news/press-releases/eu/torture/amnesty-international-global-crisis-on-torture-exposed-by-new-worldwide-campaign-0744/#.VAKp0UqfWR>

<sup>2</sup> Accession is an act by which a State signifies its agreement to be legally bound by the terms of a particular treaty. It has the same legal effect as ratification; however, it is not preceded by an act of signature. Iraq did not sign the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

<sup>3</sup> HAI, an international non-governmental organization (NGO) working in Iraq since 2004, is implementing a two-year project to strengthen the rule of law and increase human rights protections by working with the Iraq and Iraqi Kurdistan governments to increase government accountability toward implementation of the UNCAT. HAI and its partners in Baghdad and Kurdistan are undertaking a series of interrelated activities to increase judicial transparency, decrease abuse in the criminal justice system, and provide legal and psychological services to recent torture survivors. HAI works to engage civil society and government partners to help develop a comprehensive advocacy strategy to support implementation of the UNCAT by the Iraq and Kurdistan governments. Through this program,

HAI and its legal partners provide direct legal representation to recent survivors of torture contesting the use of evidence based upon torture in their criminal cases. The project also offers comprehensive psychological treatment services to torture survivors through WCHAN Organization for Victims of Human Rights Violations in Kurdistan and Al Yarmouk Hospital in Baghdad. Project staff work to increase the use in court of high quality forensic evidence of torture, by training psychologists, investigators, defense attorneys, judges, and medical examiners on the UN Istanbul Protocol, which pertains the effective investigation and documentation of torture and other cruel, inhuman, or degrading treatment or punishment. They also work to create public awareness through greater media attention on the use of torture.

<sup>4</sup> For security reasons related to frequent harassment of, and threats to, human rights defenders in Iraq, the identity of the NGO based in Baghdad is not revealed.

<sup>5</sup> For specific information see session 'Target population and data collection' page 11 of this report.

<sup>6</sup> For survey results, see pages 15 to 64.

## BACKGROUND

### The UNCAT

The UNCAT was adopted by the General Assembly of the United Nations on December 10, 1984 (resolution 39/46) and entered into force on June 26, 1987 after ratification by 20 States. The core principle of the UNCAT is the absolute prohibition of torture under international law: “the prohibition of torture is recognized as a peremptory norm of international law, meaning that a state cannot derogate from this prohibition through treaties or domestic legislation.”<sup>7</sup> The UNCAT extends beyond the traditional principles of territorial and personal jurisdiction and for the first time applies the principle of universal jurisdiction under a human rights treaty.<sup>8</sup> Iraq acceded to the UNCAT on July 7, 2011, thereby agreeing to undertake a number of obligations under the convention. Among other commitments, Iraq agreed, “to ensure that all acts of torture are offences under domestic criminal law and that punishments are appropriate to the grave nature of such crimes.”

The UNCAT defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a

third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”<sup>9</sup> Accordingly, torture is an act that:

- Results in severe physical and/or mental pain and suffering
- Is inflicted for a designated purpose
- Is committed by, or with the consent of a public official

The UNCAT defines other Cruel, Inhuman or Degrading Treatment or Punishment (CIDTP or ill-treatment) as ‘other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture.’ The exact difference between torture and CIDTP, however, continues to be a matter of considerable debate. On the one side, the European Court of Human Rights distinguishes torture and CIDTP on the basis of the intensity and severity of the pain and suffering inflicted. On the other side, M. Nowak, former UN Special Rapporteur on Torture (2004-2008), provides a nuanced definition by suggesting that torture and CIDTP are distinguished on the basis of the purpose of the conduct, as well as being ‘a matter of personal liberty.’

Accordingly, torture is carried out with specific intent and purpose, whilst CIDTP is not. Nowak further distinguishes between the legitimate and excessive use of force and CIDTP in public space by invoking “the proportionality principle;” lawful use of force requires proportionality to specific situations. However, in places of detention, ‘the powerlessness of the victim...makes him or

her so vulnerable to any type of physical or mental pressure' that the use of physical or mental force is no longer permitted. In places of detention the prohibition on the use of force is absolute. Any psychological or physical use of force constitutes CIDTP and any infliction of severe pain or suffering for specific purpose and/or intent as expressed by Article 1 of UNCAT is torture.

The UNCAT details a number of legal and administrative obligations that state parties must undertake to curb the practice of torture. These obligations include the following:

- Each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture. The prohibition against torture shall be absolute and shall be upheld in a state of war as well as, any other exceptional circumstances (Article 2);
- No State party may expel or extradite a person to a State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture (Article 3);
- Each State party shall ensure that acts of torture are serious criminal offences within its legal system (Article 4);

- Each State party shall, on certain conditions, take a person suspected of the offence of torture into custody and make a preliminary inquiry into the facts (Article 6);
- Each State party shall either extradite a person suspected of the offence of torture or submit the case to its own authorities for prosecution (Article 7);
- Each State party shall ensure that its authorities make investigations when there is reasonable ground to believe that an act of torture has been committed (Article 12);
- Each State party shall ensure that an individual who alleges that he has been subjected to torture will have his case examined by the competent authorities (Article 13); and
- Each State party shall ensure to victims of torture an enforceable right to fair and adequate compensation (Article 14)<sup>10</sup>.

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<sup>7</sup> J. Herman Burgers and H. Danelius (1988), *The United Nations Convention against Torture. A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Martinus Nijhoff Publishers, Dordrecht.

<sup>8</sup> Manfred Nowak and Elizabeth McArthur (2008), *The United Nations Convention Against Torture: A Commentary*, Oxford University Press, Oxford.

<sup>9</sup> UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)*. December 10, 1984, United Nations, Treaty Series, vol. 1465, p. 85, Article 1; available at: <http://www.refworld.org/docid/3ae6b3a94.html>

<sup>10</sup> Hans Danelius, *Introductory Note to the UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, New York, 10 Dec. 1984; available at: [legal.un.org/avl/ha/catcidtp/catcidtp.html](http://legal.un.org/avl/ha/catcidtp/catcidtp.html)

## The current Iraqi legal framework related to torture and ill-treatment

In addition to acceding to the UNCAT, Iraqi law expressly prohibits the practice of torture. The illegality of torture is set out in the Iraqi Constitution<sup>11</sup>, Penal Code<sup>12</sup>, and Criminal Procedure Code<sup>13</sup>, which are applicable in both Iraq and the IKR<sup>14</sup>. Despite these statutory prohibitions, however, the survey conducted by HAI and its partners indicates that the practice is pervasive in a number of detention facilities and prisons in Baghdad and across the IKR. As a civil law country, codified legislation plays a primary role in judicial decision-making in Iraq and the IKR. It is, therefore, imperative for Iraq's codified law to be clear and comprehensive, particularly in relation to human rights. For example, although defined in the UNCAT, the definition of "torture" is absent in Iraqi law. Key areas in which the law does not adequately address the practice of torture, or the law is disregarded, include the following:

### ***1 - The use of 'torture-tainted' confessions***

The Iraqi criminal justice system is heavily reliant upon the use of confessions, a key factor which, according to the survey, likely encourages the use of torture. Of the interviewees who alleged that they were subjected to torture, a significant number (189 individuals) considered that the primary purpose of the torture was to force them to confess, often to a crime they allegedly did not commit.

Under Iraqi law, the use of physical or psychological torture to extract confessions is strictly prohibited<sup>15</sup>, and the Iraqi legal system has a number of provisions intended

to prevent the use of torture-tainted confessions. For example, under the Criminal Procedure Code, a judicial investigator or an investigative judge should conduct investigations; however, in exceptional circumstances, a police officer is permitted to do so<sup>16</sup>.

In practice, police and security forces often conduct preliminary investigation, during which torture and ill-treatment frequently occur.

Under the Criminal Procedure Code, when the statement of the accused includes admission to the offence, a judge is responsible for recording the statement and obtaining the signature of the accused.<sup>17</sup> This provision acts as a safeguard to ensure that the confession is made of free volition. However, confessions are often taken by investigators or police rather than by judges. This lack of judicial oversight may contribute to an environment in which torture is more likely to occur.

During the trial phase of legal proceedings, the court bears sole responsibility for assessing the validity of a confession.<sup>18</sup> If a judge is satisfied with the "truth of [the] confession and that [the accused] understands its implications," the confession is sufficient to convict the accused without recourse to other evidence.<sup>19</sup> In the 405 interviews conducted, 189 detainees alleged that they were tortured and/or ill-treated into making a confession. In some instances, they stated that they were too afraid to retract their confessions in front of the judge because they did not think the judge would be "interested," or they were afraid of the repercussions that might follow outside of the courtroom.

Under the UNCAT Article 15, any statement which is made as the result of torture "shall not be invoked as evidence in any

proceedings, except against a person accused of torture as evidence that the statement was made.”<sup>20</sup> In the IKR, the Kurdistan Regional Government Anti-Terrorism Law No.3 of 2006 allows a confession extracted by torture to be valid as long it is supported by corroborating evidence that verifies the truth of the confession.<sup>21</sup> Similarly, Article 181(D) of the Iraqi Criminal Procedure Code allows the court to rely solely on confessions, if satisfied of the truth of it.

### ***II - Immunity for perpetrators of torture***

Multiple Articles in Iraqi law provide *de facto* immunity to public officials. For example, in the IKR,<sup>22</sup> the Criminal Procedure Code stipulates that an official who commits an offence in the course of his official duty cannot be transferred for trial without the permission of the responsible minister.<sup>23</sup> Similarly, both in Iraq and the IKR, except for the requests of the Internal Security Forces courts, it is not allowed to notify a policeman, summon or arrest him, unless pursuant to the approval of the Minister or the person he appoints, if the action was committed during the performance of his duty.<sup>24</sup> These provisions may explain why perpetrators of torture and ill-treatment in Iraq are rarely held accountable.<sup>25</sup> Moreover, there are a number of defenses available to public officials who perpetrate torture in the course of their “official duties.” Iraqi Penal Code Article 40 provides that acts prohibited under law are not considered crimes, if committed by public officials acting in good faith and in performance of their duties. Furthermore, if an official commits an act while following an order of a superior (provided the act is reasonable and certain precautions are taken), he will not be held criminally liable for that act. Under the UNCAT, an order from a superior can never be invoked as a justification for torture.<sup>26</sup>

In any event, as discussed below, because of the fear of repercussions, it is highly unlikely that a detainee who has witnessed torture would testify against an official. As a result, torture is often an “invisible crime” which occurs literally behind closed doors or in specifically designated rooms within detention facilities. For this reason, individuals who want to bring a legal claim against officials for the use of torture often have trouble establishing the necessary evidence.

### ***III - Lack of witness/complainant protection mechanisms***

A key limitation in the current Iraqi legal framework is the lack of protection mechanisms for complainants and/or witnesses to torture.

Under the UNCAT, state parties are obliged to take steps to ensure that a complainant (or witness) who alleges the occurrence of torture is protected from ill-treatment or intimidation as a result of the complaint (or evidence) given. The Iraqi Criminal Procedure Code currently has no witness protection mechanisms for individuals who would be willing and able to testify on torture allegations. The fact that Iraqi law does not include a protection mechanism may mean that the majority of victims of torture and ill-treatment are reluctant to make a formal complaint because of concerns about the negative security repercussions that such a complaint could attract.

### ***IV - Failure to uphold detainees’ basic legal rights***

Under the Criminal Procedure Code, all persons accused of crimes have the right to see an investigative judge within 24 hours of arrest, the right to remain silent, the right not to answer any of the questions s/he is asked, and the right to be represented by a lawyer throughout the investigation.<sup>27</sup>

These rights of detainees are also restated in CPA Memorandum No.2 and the Iraqi Constitution.<sup>28</sup> The survey conducted by HAI and partners indicates that these basic human rights are often not upheld. Of particular concern is the practice of prolonged detention, which may place detainees at increased risk of torture and ill-treatment. Under Article 109 of the Criminal Procedure Code, an investigative judge can indefinitely renew detention orders for periods of 15 days at a time with few checks and balances. While the law stipulates that the maximum period of pre-trial detention should be no more than six months,<sup>29</sup> detainees are frequently held in pre-trial detention for longer periods without adequate recourse to complaint mechanisms.

## V - Complaint mechanisms

In both Federal Iraq and the IKR, the Ministry of Human Rights and the Independent Commission for Human Rights, respectively, have roles in monitoring prisons and receiving complaints; however, they are unable to initiate legal investigations into a claim of torture. The public prosecutor is the responsible party for launching legal proceedings in cases of torture. Additionally, under the Public Prosecutor Law, the public prosecutor is responsible for supervising the work of investigators and members of law enforcement during investigations, and taking any necessary criminal or disciplinary measures against those who violate their legal duties.<sup>30</sup>

<sup>11</sup> Iraqi Constitution, Article 37(C).

<sup>12</sup> Penal Code No. 111 of 1969, Article 333.

<sup>13</sup> Criminal Procedure Code No. 23 of 1971, Article 127.

<sup>14</sup> Throughout this report, unless specified, Iraqi law refers to legislation applicable both to Iraq and the IKR.

<sup>15</sup> Iraqi Penal Code, No. 111 of 1969, Article 333 and the Criminal Procedure Code, No. 23 of 1971, Article 127 & 218.

<sup>16</sup> Under the Criminal Procedure Code, No. 23 of 1971, Article 50(a). A police officer may conduct the investigation if he is instructed to do so by an investigative judge or judicial investigator or if he considers that referring the informant to the judicial investigator or an investigative judge would 'delay necessary action'.

<sup>17</sup> Criminal Procedure Code, No. 23 of 1971, Article 128(b).

<sup>18</sup> Criminal Procedure Code, No. 23 of 1971, Article 181(d)

<sup>19</sup> Ibid.

<sup>20</sup> UNCAT, Article 15.

<sup>21</sup> KRG Anti-Terrorism Law No. 3 of 2006, Article 13.

<sup>22</sup> According to HAI's sources, the law is no longer in effect in the Federal Iraq.

<sup>23</sup> Criminal Procedure Code, No. 23, 1971, Article 136(b).

<sup>24</sup> Internal Security Forces Criminal Procedure Law, No. 17, 2008, Article 111.

<sup>25</sup> HAI partner lawyers are currently working on a torture case in Sulaimaniya, in which they have been unable to secure the permission of the ministry involved to bring the five perpetrators of torture to account.

<sup>26</sup> UNCAT, Article 2(2-3)

<sup>27</sup> Criminal Procedure Code, No. 23, 1971, Article 123(b), 126(b), and Article 57.

<sup>28</sup> However CPA orders are only applicable in Federal Iraq, and not the IKR. Iraqi Constitution, 2006, Article 19.

<sup>29</sup> Criminal Procedure Code, No. 23 of 1971, Article 109 (c)

<sup>30</sup> Public Prosecutor Law, No. 159 of 1979, Article 35.

## Other international standards ensuring fair treatment of detainees

In addition to the UNCAT, international standards exist to protect the rights of those arrested and imprisoned, and to prevent torture and ill-treatment of individuals in detention. For example, Article 9 (2) of the International Convention on Civil Political Rights (ICCPR) stipulates that when an individual is arrested, he or she must be informed, at the time of arrest, of the reason for the arrest and any charges against them.<sup>31</sup> In addition, all persons are entitled to the following minimum guarantees: to examine the witnesses against them; to have the free assistance of an interpreter; and to not be compelled to testify against him/her-self or to confess to guilt.<sup>32</sup> Moreover, until a formal trial is concluded and guilt determined, all individuals are deemed innocent under international standards.<sup>33</sup> Anyone arrested or detained on a criminal charge must be brought promptly before a judge or other official authorized by law to exercise judicial power, and shall be entitled to trial or to release within a reasonable time.<sup>34</sup> In the event s/he cannot afford counsel, an individual should receive free legal aid where such aid is available and should be able to meet with his or her legal adviser regarding their defense and to discuss confidential instructions.<sup>35</sup> Such visits between a pre-trial detainees and counsel can be within sight, but not within hearing distance of a police or institution official.<sup>36</sup> These international standards support the notion of a fair trial for every person arrested and detained for a crime.

A number of other principles support the provision of basic human rights in detention centers. For example, Principles 33 and 34 of the *Standard Minimum Rules for the*

*Treatment of Prisoners* (SMRTP) stipulate that instruments of restraint, such as handcuffs, chains, irons and straitjackets should never be used as a form of punishment.<sup>37</sup>

Principle 57 of the SMRTP provides that the purpose of the prison system is to deprive an individual of his or her liberty, which should not be aggravated through the use of indefinite solitary confinement as a punishment or extortion technique.<sup>38</sup> Principles 65 and 66 of the same document state that the treatment of prisoners shall have as its purpose the establishment of the will of such individuals to lead law-abiding and self-supporting lives after their release and to provide them with the adequate means to do so. Moreover, when in detention centers, prisoners shall have the opportunity to complain, and to have such complaints addressed without delay.

The SMRTP also highlights the need for adequate food, access to water for all prisoners and sleeping accommodations that are private to ensure the safety and wellbeing of detainees. Medical and psychiatric services, and sanitary and shower installations should be at a level as to preserve the wellbeing and general hygiene of the detention center.<sup>39</sup> Principles 82 and 83 of the SMRTP stipulate that if a prisoner is found to be insane or suffering from other mental abnormalities, arrangements should be made to remove them to a mental institution as soon as possible. The United Nations' General Assembly's Resolution 60/147<sup>40</sup> has several standards that ensure the safety of victims from intimidation and retaliation as well as that of their families and witnesses before, during and after the proceedings. This includes provisions ensuring the reparation of harms that a victim has suffered.

Finally, Principle 6 of the SMRTP stipulates that, “there shall be no discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>41</sup> It also determines that religious beliefs and moral percepts of different groups should be respected at all times.

International standards seek to preserve fundamental human rights of an individual by ensuring prisoners’ access to basic human needs while also ensuring that detention centers allow for the development, rather than the degradation of prisoners.

<sup>31</sup> UN General Assembly, *International Covenant on Civil and Political Rights (ICCPR)*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Art. 9 (2); available at: <http://www.refworld.org/docid/3ae6b3aa0.html>.

<sup>32</sup> *Ibid.*, Art. 14 (3).

<sup>33</sup> United Nations, *Basic Principles on the Role of Lawyers*, 7 September 1990, Principle 1 - Access to lawyers and legal services; available at: <http://www.refworld.org/docid/3ddb9f034.html>; UN General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment: resolution / adopted by the General Assembly*, 9 December 1988, A/RES/43/173, Principle 17; available at: <http://www.refworld.org/docid/3b00f219c.html>

<sup>34</sup> ICCPR, Art 9 (3); UN Human Rights Committee Decisions, *International Standards on Criminal Defense Rights*; available at [http://www.opensocietyfoundations.org/sites/default/files/digest\\_s-arrest%20rights-human-rights-committee-20130419.pdf](http://www.opensocietyfoundations.org/sites/default/files/digest_s-arrest%20rights-human-rights-committee-20130419.pdf); United Nations, *Basic Principles on the Role of Lawyers*; UN General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*; *Lawyers Committee for Human Rights*, “What is a Fair Trial? A Basic Guide to Legal Standards and Practice”, available at: [https://www.humanrightsfirst.org/wp-content/uploads/pdf/fair\\_trial.pdf](https://www.humanrightsfirst.org/wp-content/uploads/pdf/fair_trial.pdf).

<sup>35</sup> *United Nations Standard Minimum Rules for the Treatment of Prisoners*; ICCPR, Art. 14 (3); UN Human Rights Committee Decisions.

<sup>36</sup> *Ibid.*

<sup>37</sup> Handcuffs and straitjackets may be used to prevent escape during a transfer, by direction of medical officers or by the order of the director if other methods fail, provided that they are removed when the individual is placed in front of a judicial or administrative authority. However, even in such cases, the director must consult with higher administrative authorities.

<sup>38</sup> The Istanbul Statement on the Use and Effects of Solitary Confinement explicitly recommends that solitary confinement should not be applied to death row and life-sentenced prisoners; UN General Assembly, *Torture and other cruel, inhuman or degrading treatment or punishment: note / by the Secretary-General*, 28 July 2008, A/63/175, “Annex: Istanbul Statement on the Use and Effects of Solitary Confinement”: p. 22-25, p. 25; available at:

<http://www.refworld.org/docid/48db99e82.html>; UN Special Rapporteur on Torture Juan E. Méndez, Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Twenty-second session, 1 February 2013; available at: <http://www.refworld.org/docid/51136ae62.html>; UN General Assembly, *Basic Principles for the Treatment of Prisoners : resolution*, adopted by the General Assembly, 28 March 1991, A/RES/45/111, Principle 7; available at: <http://www.refworld.org/docid/48abd5740.html>

<sup>39</sup> *Ibid.* Principle 20. Food; Principles 9, 10, 11, 12, 13, 14, and 1. (Accommodation).

<sup>40</sup> United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.

<sup>41</sup> United Nations, *Standard Minimum Rules for the Treatment of Prisoners*.



## SURVEY METHODOLOGY

### Target population and data collection

In partnership with HAI, DHRD and its counterpart in Baghdad conducted 405 interviews with detainees and ex-detainees using a randomized selection process. From February 2013 to July 2014, the teams interviewed a total of 362 men and 43 women throughout the IKR and Baghdad. The randomized selection process was based on access to the detention centers and prisons, and differed in the IKR and Baghdad.

In the IKR, DHRD visited detention centers and reformatories, after receiving permission from local authorities, in the governorates of Sulaimaniya, Erbil and Dohuk, and randomly selected people to interview from the facilities' registers. A total of 255 interviews were conducted: 175 interviews in the Sulaimaniya Governorate; 32 interviews in the Erbil Governorate; and 48 interviews in the Dohuk Governorate. Of these, all men (214) and women (41) interviewed were arrested and detained between 2011 and 2013, with the exception of one man who was detained between 2005 and 2008.

A local NGO in central Iraq<sup>42</sup> conducted 150 interviews in Baghdad. Of these 150, all men (138) and women (12) who were interviewed were arrested and detained between 2011 and 2013.

A single exception is one man who has remained in detention since his arrest in 2005. All interviews were conducted between May 2013 and December 2013. Due to the severity of the security situation, lawyers faced difficulties in accessing detention centers and reformatories in Baghdad. Therefore, most of the interviews were conducted with recently released individuals: 123 interviews occurred in public places in Baghdad, while only 27 interviews were completed inside a detention center. In order to ensure random selection of interviewees, HAI's partner's lawyers in Baghdad asked former clients to put them in contact with other detainees who had been detained with them regardless of whether the person had been tortured or ill-treated. These ex-detainees connected lawyers with other ex-detainees living in the same neighborhood or city area where arrests were more frequent. The lawyers were also put in touch with ex-detainees through relatives and friends. Again, these ex-detainees connected HAI's partner lawyers to other ex-detainees.

Once completed, the interviews were analyzed to identify the following factors: duration of torture; methods and tools employed in the abuse; parts of the body injured and severity of the pain undergone; psychological abuse and reasons perceived by the victims; detention conditions; access to healthcare; use of bribery; and rule of law in the legal procedure steps.

## Ethical considerations and risk mitigation

In order to mitigate possible risks to both interviewers and interviewees, HAI created a set of guidelines<sup>43</sup> to be used by lawyers conducting the interviews. Additionally, lawyers were provided with a two-day training on effective interview skills, which included, among other things, methods for preventing detainees from being re-traumatized as a result of the questions asked, and reducing the danger of further torture as a result of the interviews. HAI supervised lawyers via weekly staff meetings.

Consistent with ethical standards, all interviews were conducted in private and interviews were immediately stopped if it was thought that any evidence the detainee was giving would put him or her in danger, either within or outside of the detention center. To ensure the safety and security those interviewed, the interview forms were coded to protect subject anonymity, the data collected was kept confidential, and results are reported anonymously. Any person providing information about torture or ill-treatment gave informed consent regarding the use of the data before participating in an interview, with each participant being warned about the risks and benefits of the interview. Special safeguards were put into place when interviewing minors under 18 years old. HAI offered basic care and support for torture survivors sharing information about their experiences of torture via local NGO partners who provide ongoing psychosocial support.

## Possible limitations of the survey

During the implementation of the survey, a number of issues developed which may have affected the survey's results, but not its accuracy. These include:

- A significantly fewer number of women than men were interviewed, both in Baghdad and the IKR primarily due to two reasons. First, mixed-sex interviews were avoided and a lower number of female lawyers versus male lawyers were available to conduct the interviews. Second, women victims are usually more reluctant to recount the abuses they suffered, especially if sexual in nature. To build trust and put women at ease, lawyers would have been required to conduct multiple visits with the same person and would therefore have needed a more time than was feasible. This may also be one of the reasons why minimal abuses against female detainees were reported in the interviews.
- As noted above, most of the interviews in Baghdad were conducted outside detention centers and reformatories because access to prisons was more challenging when compared to the IKR, given the security and political situation. Furthermore, a prison breakout from the Al-Adala complex in December 2013 led to increased security restrictions and significant delays for lawyers trying to gain access to detainees in the prison.

- In the IKR, officials in the Dohuk and Erbil governorates were less cooperative with HAI and DHRD lawyers than those in the Sulaimaniya Governorate. Despite obtaining permission from the relevant ministries, lawyers in those two governorates were routinely prevented from accessing detention centers and were often not allowed privacy during interviews resulting in the interviews being terminated. As a result, more interviews were conducted in the Sulaimaniya Governorate than in Dohuk and Erbil.
- Despite the training received and their awareness of the risks involved, it is possible that interviewers were affected by bias, such as asking leading questions, recording partial answers, or subjectively interpreting interviewees' responses. To the greatest extent possible, this risk was minimized through continuous monitoring of the interview process.
- The survey form was designed primarily with open-ended questions. On the one hand, abstaining from direct questioning (asking whether a person was tortured and/or ill-treated) was intended to prevent responses that interviewees believed were desired from them and they were not limited by categories to describe their experiences in detention. On the other hand, analysis of the data was more subjective, thus opening up the possibility of human error through misinterpretation.
- Torture and ill-treatment were analytically distinguished on the basis of pain severity expressed by interviewees in their answers to the questionnaire. Such analysis was conducted on the basis of intuition by the writers of this report, opening up the possibility of human error through misinterpretation or bias.

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<sup>42</sup> See footnote No. 4

<sup>43</sup> The guidelines were adapted from: World Health Organization (WHO) (2007), *Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies*; UN (1999), *Istanbul Protocol Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*; Penal Reform International (PRI) (2011), *Safeguarding Children in Detention*; Child Protection Working Group (CPWG) (2012), *Minimum Standards for Child Protection in Humanitarian Action*; and UNICEF (2006), *Guidelines on the Protection of Child Victims of Trafficking*.



## SURVEY FINDINGS

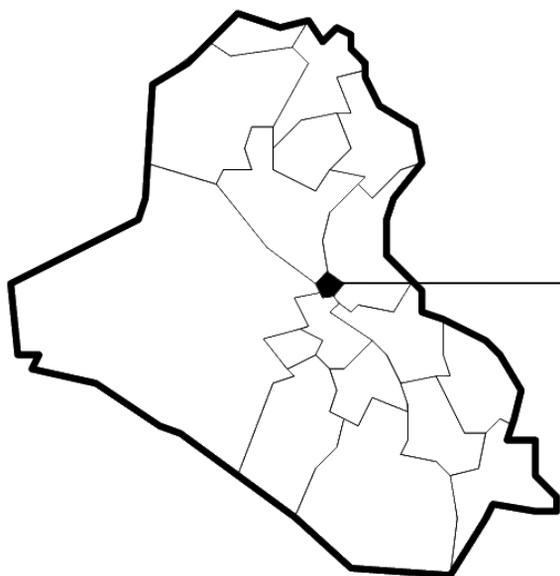
The findings are divided into two sections:

- I. Qualitative and quantitative data gathered in the interviews conducted in Baghdad.*
- II. Qualitative and quantitative data gathered in the interviews conducted in the IKR.*

After a summary of the overall results in each location, each section is divided into the following 12 sub-sections:

1. Duration of torture and ill treatment
2. Types and methods of restraint used
3. Types of tools and methods of torture used
4. Parts of the body injured by officials
5. Severity of pain
6. Psychological torture and ill-treatment
7. Perceived reason for the torture and ill-treatment
8. Detention conditions
  - a. Adequacy of the food provided
  - b. Adequacy of the sleeping arrangements
  - c. Use of solitary confinement
9. Access to healthcare
10. Use of bribery
11. Legal procedure
  - a. Arrest and formal charge
  - b. Right to legal counsel
  - c. Right to be brought before an investigative judge within 24 hours
  - d. Length of pre-trial detention
12. Witnesses for the use of torture and ill-treatment





**PART I**  
**BAGHDAD**

**150** Interviewees

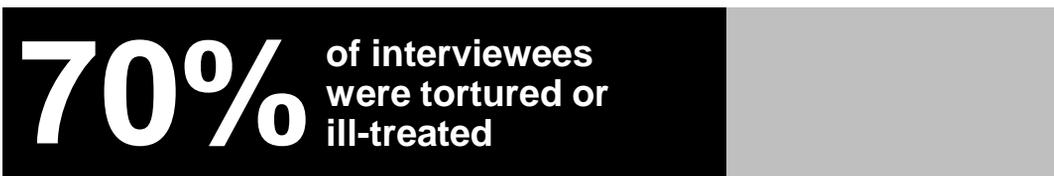
**105** Alleged they were tortured or ill-treated

# Prevalence of torture and ill-treatment in Baghdad

Of 150 interviews conducted with detainees and ex-detainees in Baghdad:

- 60% of interviewees (90) alleged that they were **tortured**
- 10% of interviewees (15) alleged that they were **ill-treated**<sup>44</sup>
- 30% of interviewees (45) claimed that they were **well-treated**<sup>45</sup>

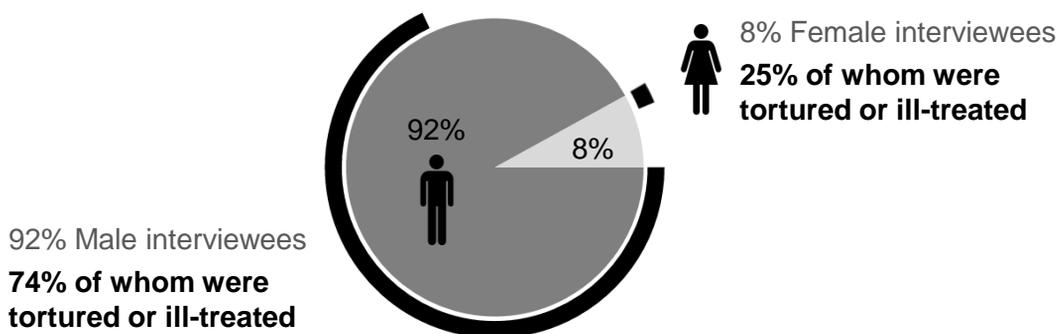
Of the 150 detainees/ex-detainees interviewed



**Tortured**

**Ill-Treated**

**Well-Treated**



Of detainees interviewed, 67 were accused of committing terrorist acts, e.g., being associated with, or helping/supporting terrorist organizations or armed groups. Eleven of the interviewees were charged under Article 4 of the Anti-Terrorism Law and consequently face the death penalty. Among the 67 individuals who were accused of terrorism related crimes:

- 51 alleged that they were severely tortured
- Five stated that they were ill-treated
- 11 stated that they were well-treated

**% of detainees accused of terrorist acts who were tortured/ill-treated (67 interviewees)**

**82%**



Additionally, in certain cases individuals were tortured for their association with family members or friends who had been accused of terrorism. In one noteworthy case, HAI interviewed a detainee who had been arrested and severely beaten because his brother had escaped from prison. Authorities also threatened to arrest his father and wife in case he did not confess.



*Although there was no complainant or secret informant giving evidence against me, they went on torturing me psychologically; they deprived me of food and water, beat and electrocuted me until I was obliged to confess to terrorist crimes that I didn't commit. I had to confess to end the torture, although I was not even in Iraq at the time the crimes were committed...They were calling me names such as "salafy" and "infidel"; they were beating me continuously and trying to humiliate me. They treated me as if I was a dangerous terrorist despite my innocence and they mistreated me because of my sect. (November 2013)<sup>45</sup>*

*They treated us like animals; sometimes they put us in cages and laughed at us or beat us or insulted us. (November 2013)*

*The policeman at the [place of detention] asked me to clean the toilets and I refused, so he started yelling at me, cursing me, and hitting me [...] with his hand and feet on every inch of my body. He pushed me on the floor and forced me to clean the toilet. (July 2013)*

*The instant they found out that the charge against me was for being a member of the Ba'ath party, the abuse and beatings started. They cursed at me, using words such as "Ba'athist scum" and "Saddamist scoundrel." They pushed me to the stage where I confessed that I belong to the Ba'ath Party (Al Da'wa Party) and that we were planning to bring the Ba'ath Party to governance. After they had gathered the information they wanted from me I was released for lack of sufficient evidence. (August 2013)*

*During the arrest, I faced sexual harassment and they were touching sensitive parts of my body. During the investigation I was beaten severely. (December 2013)*

<sup>44</sup> The distinction between torture and ill-treatment was made, by the authors of this report, on the basis of the intensity of the pain or suffering inflicted, as expressed by the interviewees in their answers to the questionnaire.

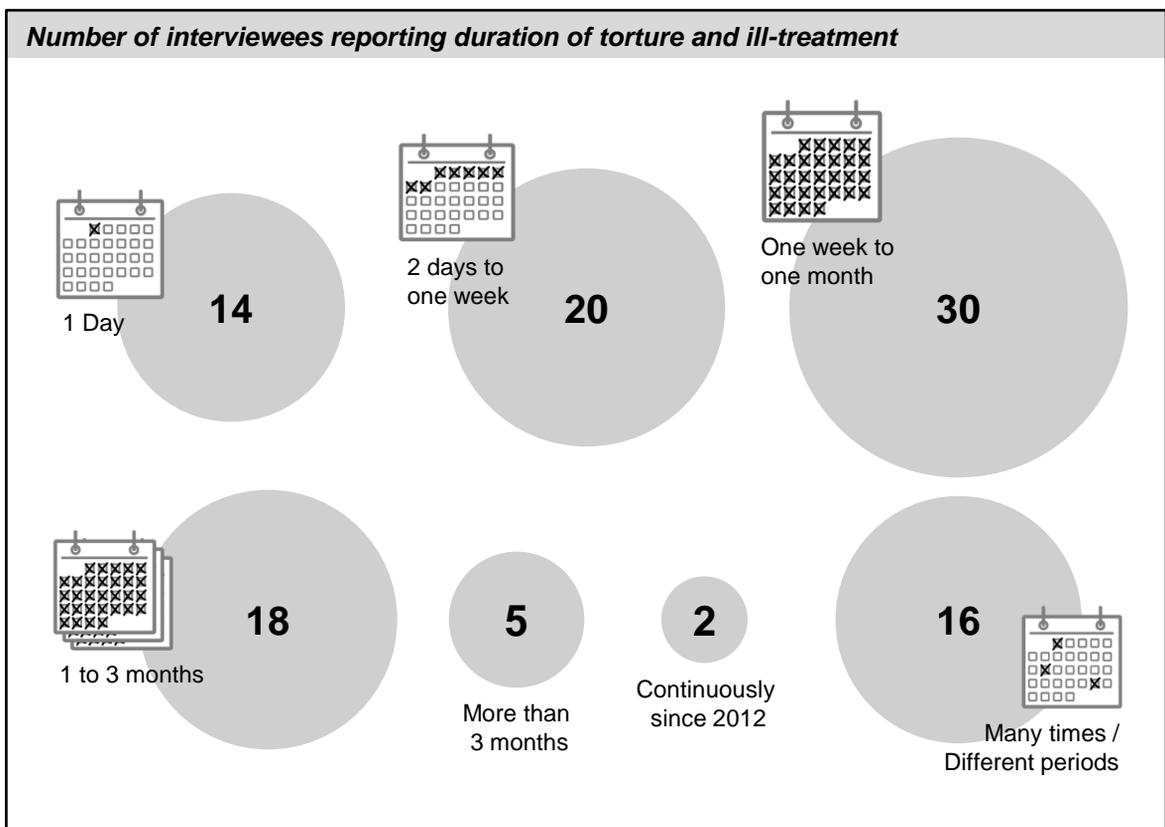
<sup>45</sup> Of 45, four did not openly claim they were well treated but it was concluded from their other answers.

<sup>46</sup> Quotes from the interviewees themselves are in italics and are included when deemed particularly relevant to the subsection in which they appear. The dates are the dates of the interview.



## 1 - Duration of torture and ill-treatment

The data collected from the 150 interviews in Baghdad show that the time periods between torture and ill-treatment sessions varied, as did the time of the sessions themselves. Of the 105 people who alleged that they were ill-treated or tortured, for the majority (64 interviewees) this was continuous for periods ranging from one day to one month.<sup>47</sup> However, a number of persons interviewed claimed that they were subjected to torture and abuse for even longer periods of time, for example more than three months, and in extreme cases, some were consecutively abused for more than two years.





*During the first three months of my arrest I was tortured approximately every week during investigation. (May 2013)*

*For the first six months, I was tortured so many times that I can't remember it all. (July 2013)*

*It was continuous for one month and a half; sometimes they were beating, sometimes swearing at me and insulting me; it was every day while I was in detention until I was released. (August 2013)*

*The bad treatment was continuous for nine months, from my arrest until I was released. It was all the time. There wasn't a specific time; they were doing it whenever they wanted to, according to their mood. (August 2013)*

*I was tortured] many times; nearly four times per day during the first month following my arrest. (July 2013)*

*From March 2012, the abuse has been continuous; no specific times, continuously day and night. (November 2013)*

*They used to torture and beat us in groups almost every day for a month. They were dividing us into groups and letting the soldiers beat us. They forced us to make sounds like animals, and sometimes they blindfolded us and pretended they were going to shoot us. Once a soldier shot a gun next my ears; since then I have not been able to hear voices [in that ear]. (December 2013)*

*During the investigation they informed me that a number of detainees confessed that I was involved in killing people using sound suppressor weapons. I denied it, and the torture began. They would leave me in the bastinado position for long time. They used to deprive me of food for periods of two days and then electrocute me until I got tired and had no choice but to confess. They warned me: "If you deny your confession in front of the judge, we will get your wife." So, I confessed to the crimes in front of the judge. (September 2013)*

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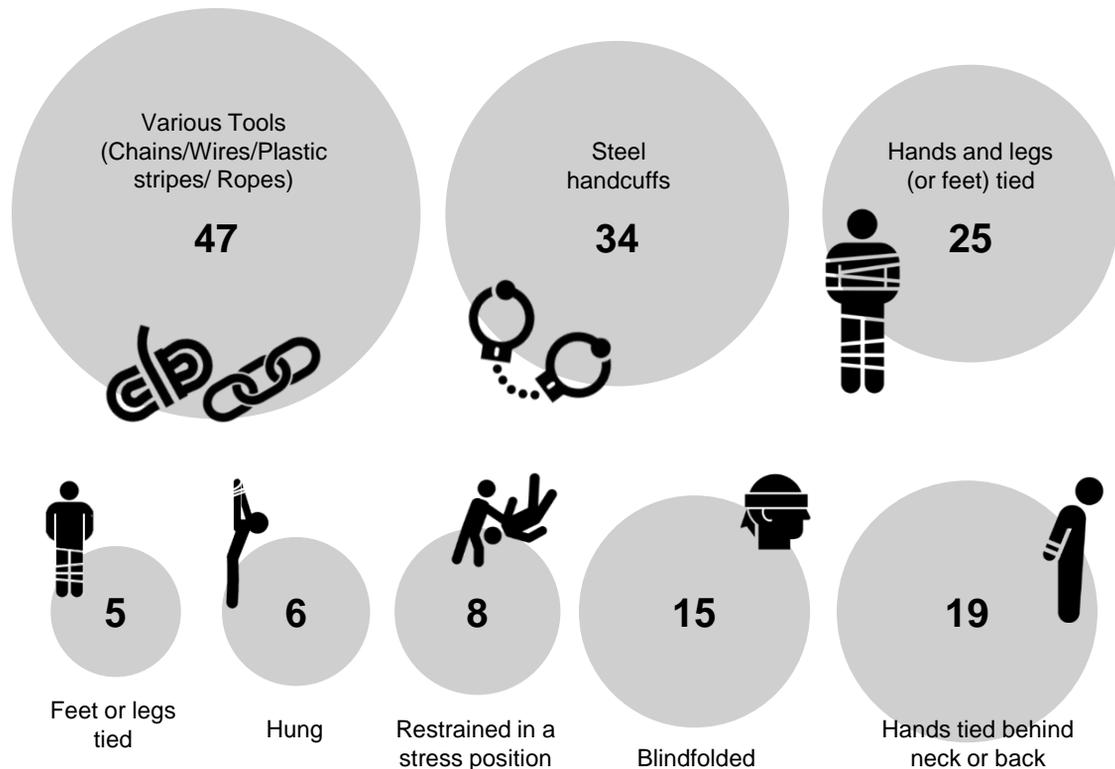
<sup>47</sup> According to the interviewees' testimonies, a high rate of torture and ill-treatment occurred during the arrest and interrogation phases of the criminal judicial system.



## 2 - Types and methods of restraint used

According to the *Standard Minimum Rules for the Treatment of Prisoners*, a person who has been arrested may only be restrained using iron handcuffs as a method of precaution either during transfer, or due to medical reasons. Ninety-six of the detainees and ex-detainees interviewed in Baghdad described methods of severe restraints – considered to be torture<sup>48</sup> – that were used against them. Interviewees reported having been restrained with different tools (chains, wires, plastic strips, ropes, etc.) as well as in diverse positions. For instance, five interviewees claimed to have been restrained in the “scorpion position”, which is a stress position in which the right and left arms are tied above the shoulder to the right and left legs, respectively. Three said they were tied in the “X” or “crossed position” which tied the left arm to the right leg and vice versa above the shoulders. Six reported that they were hung. Fifteen people indicated that they were blindfolded while restrained, either with a piece of cloth or a sac over their head.

**Number of interviewees reporting types and methods of restraint used**





*In every investigation session they would beat me. I was tied up and blindfolded. One time, they hung me upside down from the ceiling of the room and used electric shocks to torture me. In addition, they threatened to arrest all my family members and rape my wife. (July 2013)*

*They have their styles they use to torture people. They would tie my right hand to my left leg and my left arm to my right leg and leave me like that for hours. I would often lose consciousness. Then they would give me some time to rest and later torture me again, using bastinado. They had special rooms for the torture. If someone enters into those rooms, they will confess anything the security forces want; even that they murdered their own father or mother...I confessed to all the crimes that they accused me of. (November 2013)*

*Three days after my arrest, I was transferred to the [place of detention]. In the night, while I was in a solitary confinement, I was taken to a private investigation room. I was tied in a scorpion shape and they started torturing me by beating me with an electric stick. The situation continued for days; later I was forced to confess. After I confessed, the torture ended, but the head of investigation accompanied me to the court. He told me that if I did not repeat my confession in front of the judge, he would have me tortured again. However, during the court hearing, it was proven that the people I was accused of killing were still alive; so I was acquitted accordingly. (August 2013)*

*They tortured me with electricity; they beat me with sticks and cables to make me confess. They hung me from my feet to the ceiling for hours while they beat me severely. (October 2013)*

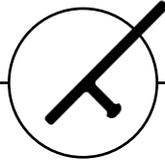
*My eyes were blindfolded, my hands and feet restrained in a reverse way called scorpion method. (November 2013)*

*They restrained my right hand with my left foot, and my left hand with my right foot. (November 2013)*

*They put a black sack on my head and restrained my hands and feet. (August 2013)*

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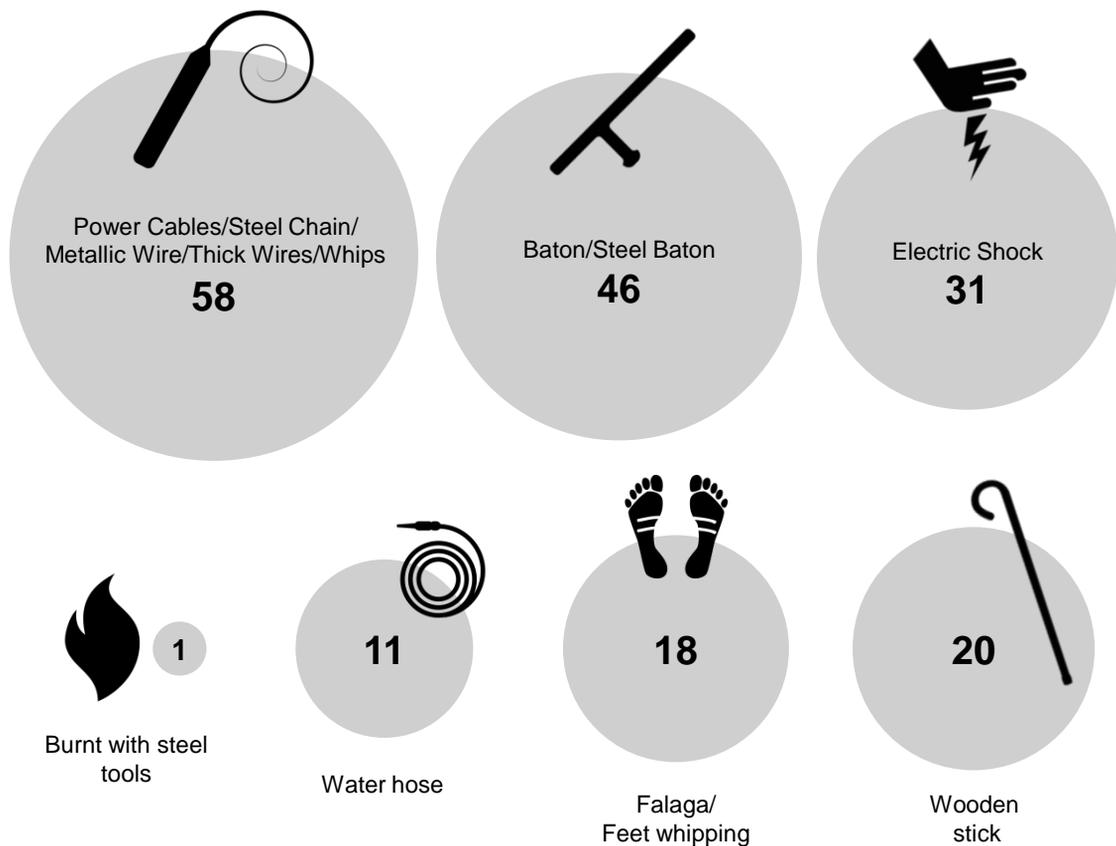
<sup>48</sup> Standard Minimum Rules for the Treatment of Prisoners, Principles 33 and 34 - Instruments of restraint



### 3 - Types of tools and methods of torture and ill-treatment used

A wide variety of tools and methods of torture and ill-treatment were used against 90 interviewees. They reported being beaten with batons, wooden sticks, power cables, steel chains, metallic wires, whips, and water hoses. A remarkable number of interviewees (18 individuals) were subjected to “falaga” (also called foot whipping or bastinado) in which the soles of a person's bare feet are repeatedly beaten with a tool, such as a baton or a stick. Another common form of torture and abuse is the practice of electric shock and use of various types of electrical devices.

*Number of interviewees reporting types of tools and methods of torture used*





*During my detention, they would beat me with sticks, cables and iron chains. They hung me from the ceiling with my hands tied tight behind my back. Then they put my head into a barrel of water; I felt like I was about to die. (December 2013)*

*They would blindfold me, tying my hands and feet, throwing me on the ground and beating my chest with a stick or a cable. Sometimes they would tie my chest with a rope in a painful way. (December 2013)*

*During the investigation they tied a metal wire on my wrist and applied electric shocks when I did not answer or confess. My eyes were blindfolded by piece of fabric. They would hit and kick me in the stomach. (July 2013)*

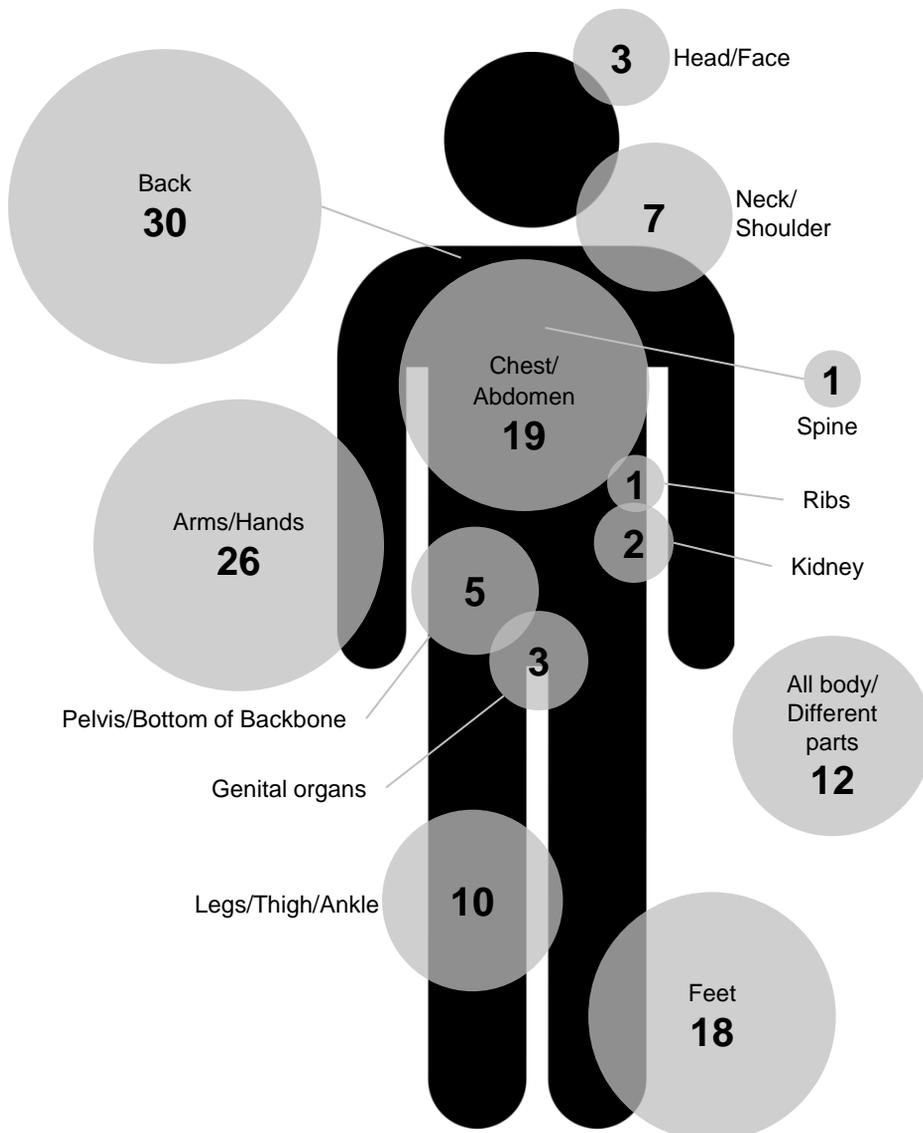
*They used to hang me from the ceiling and beat me with sticks and other objects which I couldn't recognize as I was blindfolded. They used electricity, and put me in very hot water. (October 2013)*



## 4 - Parts of the body injured by officials

Sixty-four interviewees reported injuries as a result of the torture and ill-treatment administered by officials. Almost half (30) reported having their backs damaged, and a large number reported injuries to hands (20) and chest (18) due to being held and beaten in stress positions. Eighteen reported having injuries on their feet as a result of the practice of falaga. All parts of the interviewees' bodies have been reported to be hurt. Based upon interviews, no part of the body is spared from torture, including upper and lower body parts, as well as injury to internal organs (such as kidneys) and genital organs.

**Number of interviewees reporting parts of the body injured**





*Although the case against me was based on a malicious complaint, the individuals in charge insisted on forcing me to confess. Once one of them brought me liquids, such as water, juice, and milk; he started talking to me nicely, telling me to drink and not to worry because I was safe there. After he had persuaded me to drink a large amount of liquid, I told him I needed to use the bathroom...A group of them tied my penis with a rope, and told me 'now pee'. I was screaming because I could not urinate. He told me that if I confessed he would let me pee. I could not stand the pain and I admitted to all the crimes mentioned in the statement of the secret informer. (August 2013)*

*I was subjected to a lot of beating; one time they tied my head between my legs for two days and left me without food and water. This caused an injury to my spine that I still suffer from now. (July 2013)*

*They fractured my right thigh. (May 2013)*

*My ribs, hands, and pelvis were fractured. (July 2013)*

*My head and back were injured, and my leg fractured. (August 2013)*

*One of the ribs is fractured as well as bones in my feet. (July 2013)*

*The bones in my feet were broken. I have bruises and contusions on my chest, hands and feet. (November 2013)*



## 5 - Severity of pain

The pain suffered by 105 detainees and ex-detainees interviewed<sup>49</sup> was described by many as “very bad” and “unbearable”. Examples of how interviewees described the pain inflicted on them through the use of torture and ill-treatment include the following:



*The pain, torture, and the abuse I suffered cannot be described...At the beginning of my arrest, I faced most severe sorts of torture and electrocution, hard beating, until I was left with no choice; I told them, 'I am ready to confess anything you want'. I wished my life would end to rid me of the miserable pain. (November 2013)*

*The investigation officer at the police station ordered the officers to tie me and throw me onto the floor. Afterwards they tied my legs and began to whip the bottom of my feet multiple times; I was crying and screaming, I told him that I was a burglar, and he left me alone. (July 2013)*

*The officer screamed at me and started beating and swearing to me. This went on with electrocuting and beating the soles of my feet for a long time. I fainted several times. (September 2013)*

*The pain I faced I would not have ever imagined in my life. (June 2013)*

*So bad you can't imagine, I couldn't sleep for days because of pain from the beatings. (August 2013)*

*The psychological and moral pain was so severe that it can't be described. My body was simply in pain. (August 2013)*

*I couldn't bear the pain and I lost consciousness more than once. (August 2013)*

*I was crying because of the severe pain, I couldn't bear it. (August 2013)*

*I'm affected by asthma and most of the time I felt like I was suffocating. (August 2013)*

*I collapsed because of what I had suffered. (August 2013)*

*They were beating me without mercy and humanity. (August 2013)*

*On one occasion after I was beaten, I was transferred to hospital. (September 2013)*

*I could not bear the suffering; I wanted to die. (November 2013)*

<sup>49</sup> Those allegedly tortured



## 6 - Psychological torture and ill-treatment

Psychological abuse appears to be a widespread practice in Baghdad. 105 interviewees reported that they were treated disrespectfully, and subjected to insults and swearing. When interviewed, individuals reported that these insults were primarily directed against themselves (52 individuals); their honor (54); their family member or clan (37); their sect and doctrine (9); their political view (1); or their sexual orientation (1). Furthermore, two of the women interviewed reported sexual harassment and sexual abuse.<sup>50</sup> It is noteworthy that 27 people were threatened with death or threats were made against their family (either that their family members would be arrested or that their wives and daughters would be raped) if they did not confess.

Testimonies of psychological torture and ill-treatment that interviewees were subjected to include the following:



*The officer threatened to arrest my wife if I didn't confess. (May 2013)*

*They arrested me and put me into solitary confinement. At night, they took me to the torture room and put a bag on my head to electrocute me; they called me names, threatened to rape my wife, and beat me severely. I couldn't bear it and confessed that I planted bombs on roads. (May 2013)*

*They used to hang me on the ceiling, beat my body, insult me and threaten to rape my wife. (September 2013)*

*They would tie my hands behind my back and put me into a fabric black bag before taking me to the investigation room. Then, they would ask me questions; throwing accusations at me, and asking me for information that I didn't know. They [...] threatened to arrest my family if I did not confess. (June 2013)*

*I was treated badly in detention; they told me that they would bring in my wife and daughters and rape them if I did not confess. During the investigation, the officer threatened to kill all of my family members. (October 2013)*

*The night I was arrested they put me in a casket for three hours and told me it was my tomb. They called me terrorist [...] they accused my family of using our orchard for terrorist purposes. Even the judge swore me and yelled at me. (August 2013)*

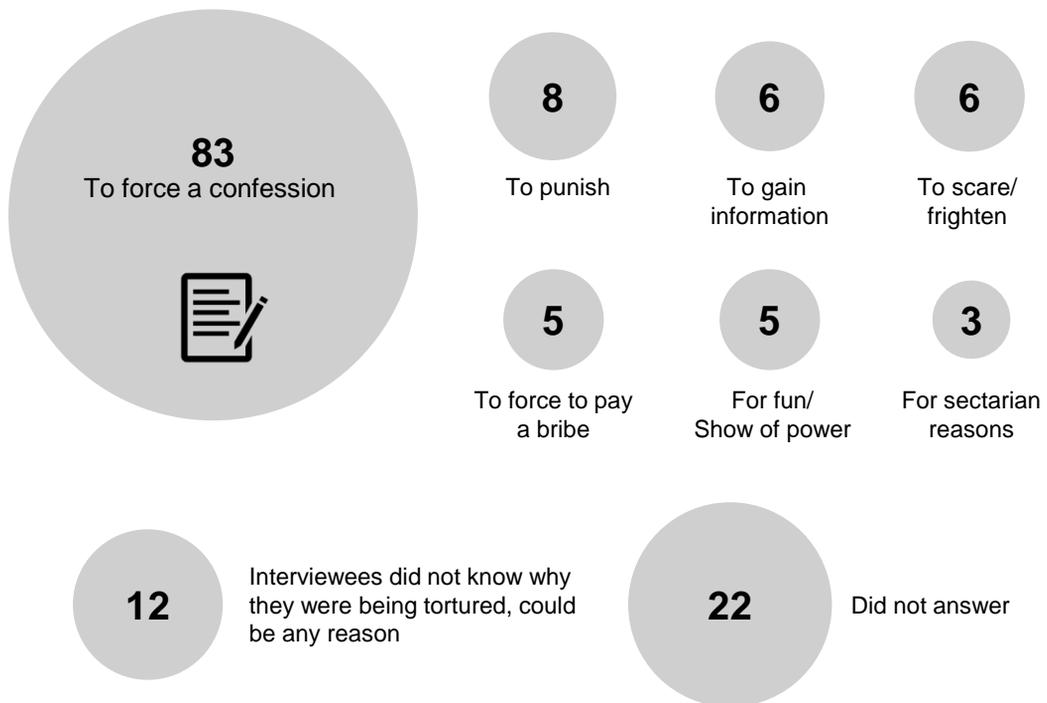
<sup>50</sup> According to The United Nations Convention Against Torture- A Commentary (2008) p. 588 'degrading treatment or punishment' is defined as the infliction of pain or suffering, whether physical or mental, which aims at humiliating the victim.



## 7 - Perceived reasons for the torture and ill-treatment

Among the 150 interviewees in Baghdad, the majority -among those tortured- believed that the reason for the torture was to force them to confess (83) or to extract information (6). Additionally, others claimed to having been tortured solely for political reasons, such as being an Iraqi Army officer during the Ba'ath regime. Others reported torture was used to force a bribe payment or to prove the perpetrator's strength, authority and power over those being detained. Other reasons were reported, as follows:

### *Number of interviewees stating the perceived reasons for torture and/or ill-treatment*





*I thought that they would kill me right away. They put a black bag on my head and took me away. The investigator and some guards used to beat and insult me every day in the evening. The individual who had informed against me was a high rank official of a political party, who had asked them to beat me. They wanted me to confess that I had burglarized his house. This man participated in torturing me personally. I can't say his name because I am very afraid of him; he was the informant and the investigator at the same time. He ordered them to electrocute me. They used to beat me with a stick, and they inserted a stick into my anus. I wished I would die. Finally my tribe managed to persuade the man to release me. (June 2013)*

*In every investigation session they asked me to confess to a new crime. They would handcuff me, put a black cloth bag over my head and put my head into a water tank. They beat me and shocked me with electricity and even when I was confessed, due to the severity of the beating, they would still keep beating me for revenge and punishment. (July 2013)*

*I want to tell my story, which has greatly affected me; I was tortured and insulted because I am a member of the \*\*\*\*\* religious sect and the guards were \*\*\*\*\*. They tortured me because I'm \*\*\*\*\*. They forced me to confess to murdering \*\*\*\*\* , and carrying out bombing and kidnapping. (November 2013)*



## 8 - Detention conditions

### A - Adequacy of the food provided

According to Iraqi national law<sup>51</sup> and international standards, every prisoner should be provided with an adequate daily amount of food that meets a standard nutritional value deemed satisfactory for the health and strength of those detained. Drinking water should be provided at all times.<sup>52</sup> With respect to the 150 individuals interviewed in Baghdad, 82 people stated that the quality of the food was bad and that the quantity was not enough. Additionally, 12 detainees had to either buy food by themselves or their families had to bring them food. Interviewees reported that food and water deprivation was used as a form of punishment as well as a form of torture. Nine people stated that the food quality and quantity improved after being convicted.



*I faced all types of torture; they would tie my hands and hang me from the ceiling using a hook, they would beat me, sometimes electrocute me, and sometimes deprive me of food. (July 2013)*

*Deprivation of food was used as kind of punishment; sometimes they would not give us food for a day. (July 2013)*

*The food was bad and not enough; sometimes there was no food for whole a day. (June 2013)*

*The food was so bad and not enough: it wasn't fit for human consumption. (July 2013)*

*The food was so bad; not cooked, not clean and not enough. (July 2013)*

*The food was bad and not enough; most of the time there was some dirty thing inside it. (August 2013)*

*The food was not enough and it was full of dirty things and tasted awful. (November 2013)*

*Most of the time there were insects in it. (August 2013)*

<sup>51</sup> CPA Memorandum No. 2 Section 8

<sup>52</sup> Standard Minimum Rules for the Treatment of Prisoners.

## B - Adequacy of sleeping arrangements

Sleeping arrangements were reported to be inadequate by 82 interviewees. Rooms were described as overcrowded, lacking basic sleeping items (i.e., mattresses and blankets), and unhygienic. Particularly poor sleeping conditions were also inflicted as punishment. One detainee reported that his sleeping conditions were worse than his fellow detainees due to the ongoing hostile relationship he had with a high-ranking official. In still other cases, sleep deprivation was used as a form of torture and/or ill-treatment.



*Once they knew the charge against me... they hated me...they would come [into the cell] late at night, while I was asleep, and beat me; ordering me to get up and not to sleep. Whenever I fell asleep they would come into [the cell] to beat me and wake me up. (August 2013)*

*The sleeping [arrangements] were bad; most of the time we were sleeping while sitting upright as the space was too narrow [to lie down]. (August 2013)*

*There were beds and blankets but the air conditioning was very bad. Because of the large number of detainees, the place's odor was bad, like urine. (August 2013)*

*There wasn't enough room to sleep. We had to sleep in shifts; half of us were sleeping while the other half remained awake. (September 2013)*

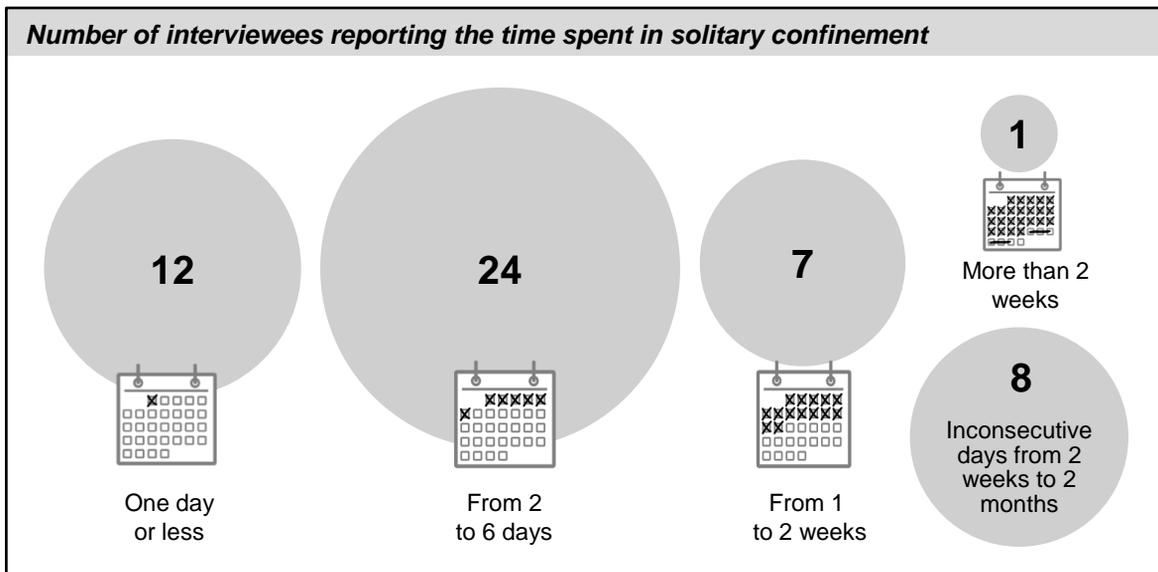
*My father paid a bribe to let me sleep in the room of one of the policemen because the sleeping place was so bad. (September 2013)*

*It was like sleeping as an animal; in a corral or cowshed [which was] dirty and dark. (December 2013)*

*The sleeping arrangement isn't adequate; the place is narrow and the odor of the toilets is so bad because the toilets are inside the cell (September 2013)*

## C - Use of solitary confinement

Fifty-two interviewees reported that they were held in solitary confinement for various amounts of time. The majority (24) of those interviewees reported having to spend anywhere from two to six consecutive days in a room alone as a form of punishment or torture, while others reported being held for different amounts of time within two-week to two-month periods. Conditions of solitary confinement were reported as being severe. Testimonies recount detainees being held in rooms described as small, dark, dirty, and without windows. Interviewees stated that the rooms where they were held measured at 1x1; 2x1; 2x2; 3x3 meters surface.



*They accused me of being a terrorist who killed Iraqis. Their proof was a confession of other detainees. They tortured me and put me into solitary confinement without food or water for five or six days, I don't remember exactly. After two months, I was obliged to confess, to end the torture. (September 2013)*

*It was an empty room without furniture or mattresses. There were insects biting us. [Duration of confinement: two days] (September 2013)*

*It was a room without a mattress. The room was specialized for torturing; where there were batons, cables. [Duration of confinement: two months during non-consecutive periods] (November 2013)*

*An empty room without a mattress and which contained animal dung. [Duration of confinement: one and a half months during non-consecutive periods] (November 2013)*

*It's a cold, dark room, one meter wide and one meter high. [Duration of confinement: three consecutive weeks] (September 2013)*

*The room was small with bad odor and high humidity. [Duration of confinement: two days] (July 2013)*



*Dark room, one meter by one meter. [Duration of confinement: 10 days] (August 2013)*

*A small room without a lamp, it was one meter by one meter. [Duration of confinement: two months during non-consecutive periods] (November 2013)*

*A dark prison two meters wide and one meter high. [Duration of confinement: three consecutive weeks] (November 18, 2013)*



## 9 - Access to healthcare

Forty-three interviewees stated that prompt access to health care was not given, and only 38 people (out of 150 interviewed) were visited by a doctor in detention. One hundred and twelve people did not see a doctor during their arrest and detention. Of the 125 who stated that they required medication:

- 43 were not provided with the medicine they required
- 15 were not always provided with the medicine they required



## 10 - Use of bribery

Sixty-four of the interviewees stated that they had to pay a bribe to officials; 28 had to pay a bribe to allow their case to proceed, to accelerate the process of investigation, and/or to have their investigation papers presented before a judge. Thirty-one paid a bribe to help them get released.



*A secret informant accused me of committing an armed robbery. I told the officer that I am from a well-known family and my finances are good so I had no reason to commit a robbery. The officer said that he could help and protect me, but I would have to pay him. I was obliged to [pay the bribe] in order to protect the reputation of my family; I couldn't bear imprisonment or to face the shame...I was obliged to bribe them even though I was innocent. (September 2013)*

*They dealt badly with me. There was neither food nor a mattress; our families brought it for us. They only treated people well if they had paid a bribe or had an intermediary; the rest of us were abused and insulted. (September 2013)*

*They dealt with me well because I paid them a bribe from the first day of arrest. (September 2013)*

### **Interviewees indicated the following reasons why they were asked for bribes:**

*So that they wouldn't beat me and would allow me to deny the crime. (May 2013)*

*To allow me to use a mobile phone to call my mother. (July 2013)*

*To allow me to call my family by mobile phone. (July 2013)*

*Once to speed up the process of presenting my investigation papers to the judge and another time to accelerate the process of getting released. (June 2013)*



## 11 - Legal procedure

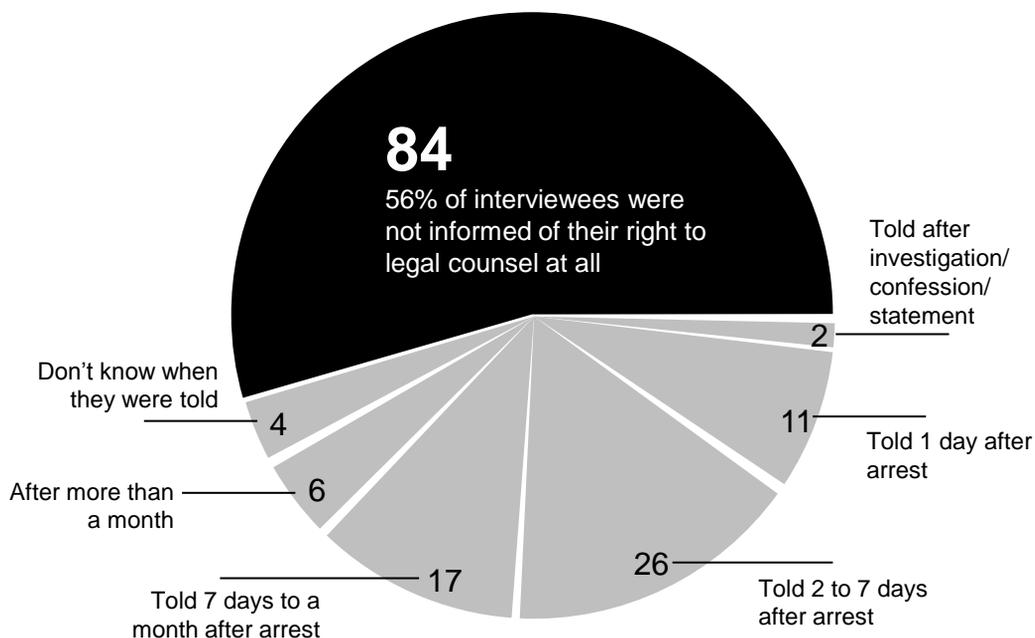
### A - Arrest and formal charge

The results of the interviews conducted show that the right to be formally arrested and informed of any charges against him/her<sup>53</sup> is not fully applied to all interviewees. Nine of the interviewees alleged that they were taken without an arrest warrant. Twenty-two interviewees stated that they had not been formally charged with a crime. At the time of the interviews, all 22 had been detained for periods of between eight to 26 months.

### B - Right to legal counsel

56% of detainees (84) were never informed of their right to legal counsel as required under Iraqi and international law, or they were informed with delay.

**Number of interviewees reporting the time span before being informed about their right to legal counsel**



<sup>53</sup> ICCPR, Article 9 (2)

### C - Right to be brought before an investigative judge within 24 hours

At the time of their interviews, 24 people had not been brought before a judge during their detention period (all had been detained for more than 24 hours).

<b>Number of interviewees reporting the duration spent in pre-trial detention before being brought before an investigative judge</b>	1 day after arrest	<b>15</b>
	2 to 7 days	<b>35</b>
	8 days to 1 month	<b>35</b>
	1 to 3 months	<b>21</b>
	More than 3 months	<b>17</b>

Among the 17 people who waited more than three months:

- 10 people waited between six-to-eight months before being brought before a judge
- One person was detained 11 months before being brought before a judge



*The officer insisted on having me confess before sending me to the investigation judge. For two days, they tied my hands and legs, and put a bag on my head. Then they beat me with sticks and plastic bars, electrocuting me, and swore at me. (May 2013)*

### D - Length of pre-trial detention<sup>54</sup>

At the time of their interviews, 112 people stated that they had not received trial, 25 of whom were still detained at the time of the interview. Only 36 of 112 were detained for less than a month. Of the other 76:

- 40 people were detained from two-to-six months (at the time of the interview, 6 still detained)
- 18 people were detained from six-to-twelve months (at the time of the interview, 9 still detained)
- 16 people were detained from one-to-two years (at the time of the interview, 8 still detained)
- 2 people had been detained for more than two years without trial<sup>55</sup> (still detained at the time of the interviews).

<b>Number of interviewees reporting the time spent in pre-trial detention before being released</b>	Released within a month	<b>36</b>
	Pre-trial detained from 2 to 6 months	<b>40</b>
	From 6 to 12 months	<b>18</b>
	From 1 to 2 years	<b>16</b>
	<b>2</b> More than 2 years	



## 12 - Witnesses for the use of torture and ill-treatment

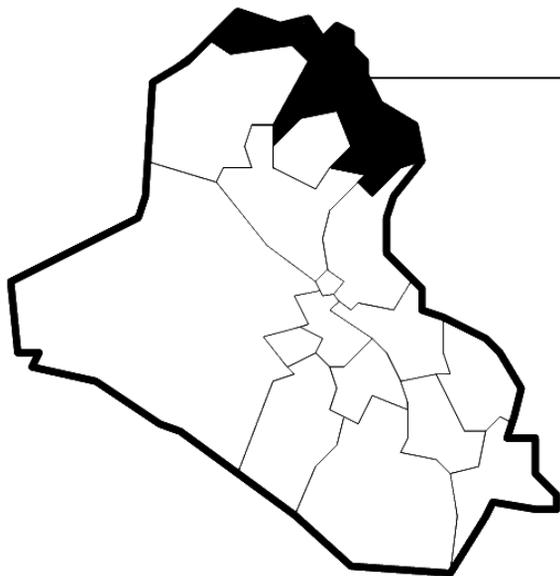
In the majority of cases (121 out of 150), individuals who alleged that they were subjected to torture indicated that no other detainee witnessed the abuse.

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<sup>54</sup> According to Iraqi Criminal Procedure, Article 109, the total period of detention should not exceed 6 month, unless upon approval of the Felony Court. Internationally, the ICCPR, Article 9(3), requires that “anyone arrested or detained on a criminal charge...shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subjected to guarantees to appear for trial.”

<sup>55</sup> One interviewee had been in detention for 28 months without a trial, and one had been in detention for 27 months.





**PART II**  
**IRAQI**  
**KURDISTAN**  
**REGION**

**255** Interviewees

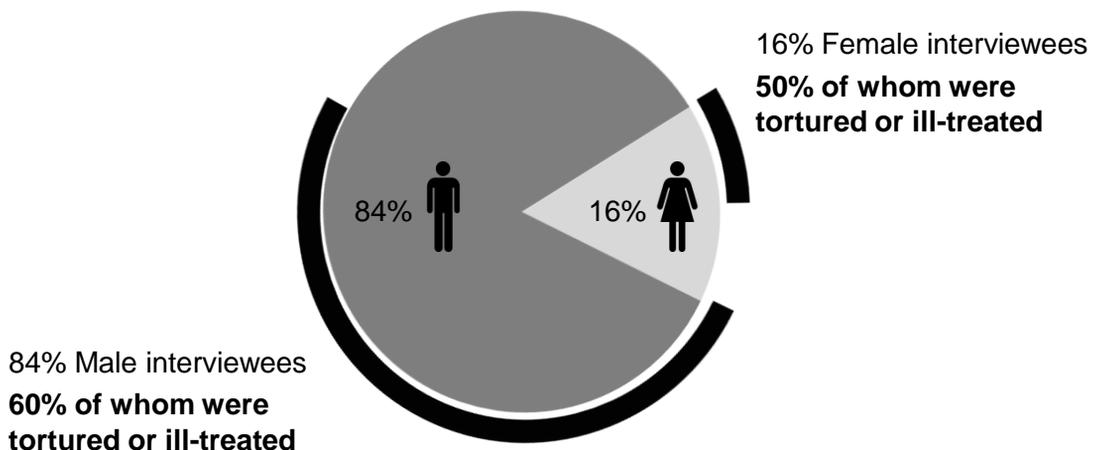
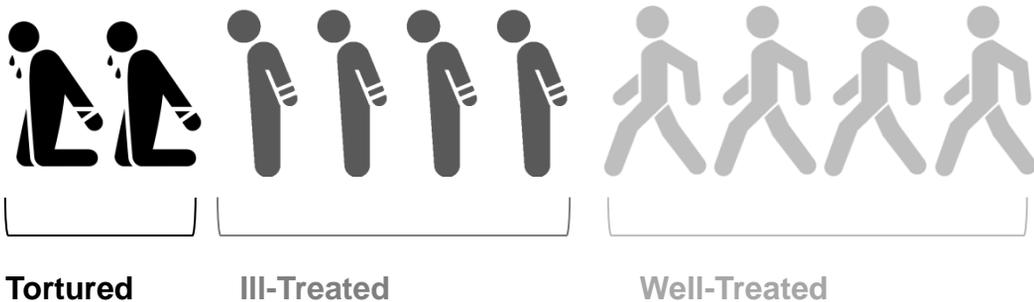
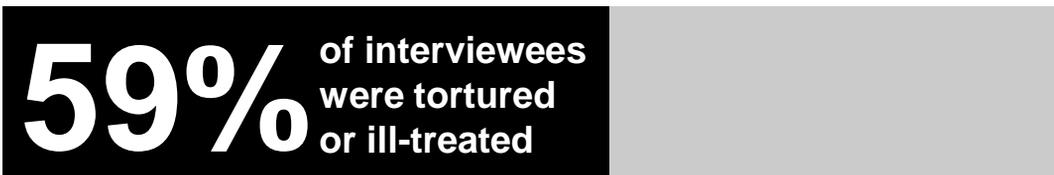
**150** Alleged they  
were tortured  
or ill-treated

# Prevalence of torture and ill-treatment in the Iraqi Kurdistan Region

Of 255 interviews conducted with detainees and ex-detainees in the IKR:

- 52 interviewees (20.4%) alleged that they were tortured
- 98 interviewees (38.5%) alleged that they were ill-treated<sup>56</sup>
- 105 interviewees (41.1%) claimed that they were well treated<sup>57</sup>

Of the 255 Detainees and ex-detainees interviewed





*Suddenly, they took me to the yard and tied my legs with a piece of cloth. A policeman put his foot on my chest, another one raised my feet, and a third one started beating the bottom of my feet with a plastic bar until I lost feeling in them. Then they untied me and asked me to dance. While I was dancing, they were kicking me and I was falling down with my hands tied behind my back. I was forced to stand up again to continue dancing, while they continued to kick me. Then they put me in solitary confinement, in a 3 x 4 meter room; it was dark, with a small window, there was a toilet inside, and no rugs on the ground. They used to come from time to time to insult me, slapping me, demanding I confess. (Erbil, July 2013)*

*I was tortured three times a day. I was subjected to electrical shocks on my neck and back, I was beaten on my hands and back with cables. They were torturing other people in front of our eyes. We had only 10 minutes [a day] to have a shower and to use the toilet. They forced me to sign a statement, while my eyes were blindfolded. They said they would bring in my wife and rape her [if I did not sign]. (Erbil, August 2013)*

*They treated us as they liked; sometimes they were drunk and they were beating us. (Sulaimaniya, December 2013)*

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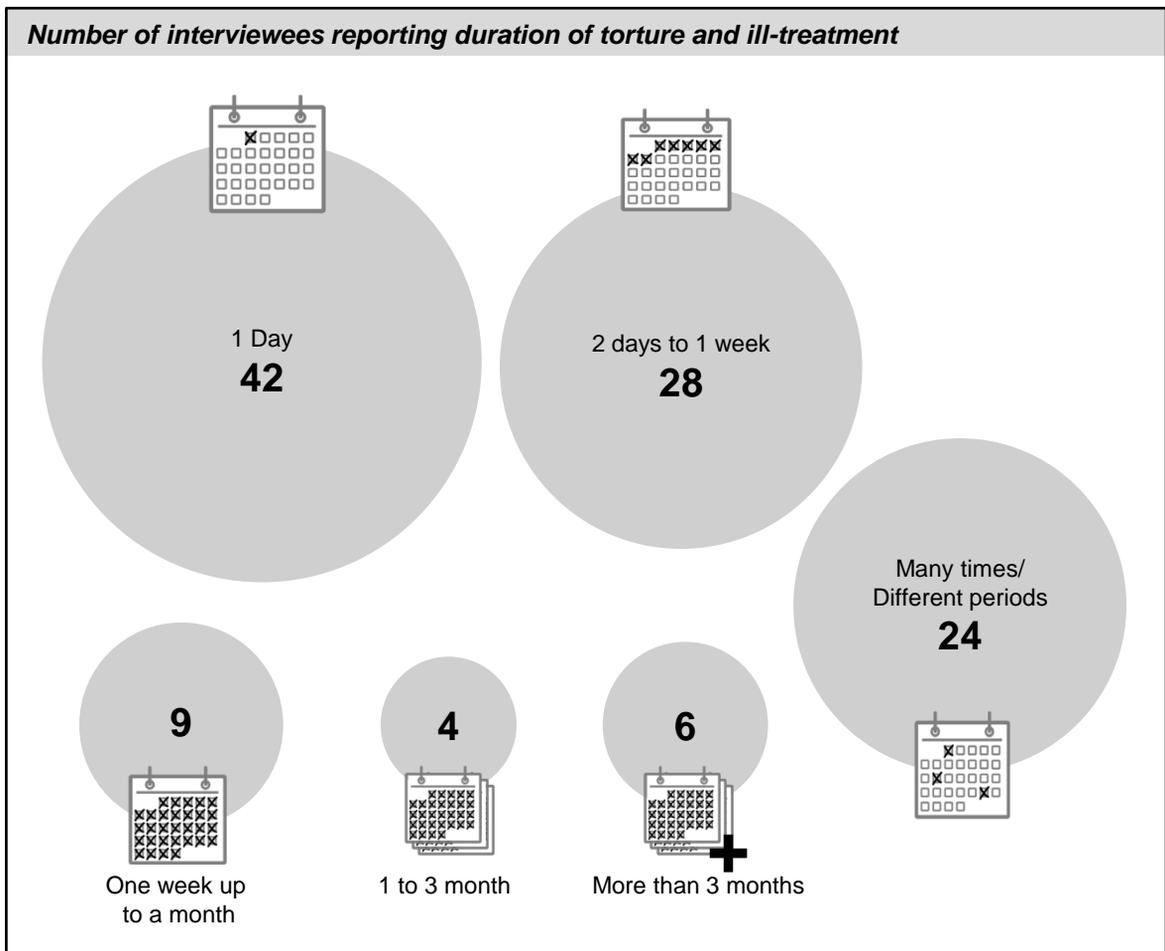
<sup>56</sup> The distinction between torture and ill-treatment was made, by the authors of this report, on the basis of the intensity of the pain or suffering inflicted, as expressed by the interviewees in their answers to the questionnaire.

<sup>57</sup> Of 105, 11 did not openly claim they were well treated but it was concluded from their other answers



## 1 - Duration of torture and ill-treatment

The data collected from the 255 interviews in the IKR show that the time periods between torture and ill-treatment sessions varied, as did the time of the sessions themselves. Of the 150 people who alleged to be ill-treated or tortured, the majority (79 interviewees) were subjected to continuous abuse ranging from one-day to one-month time periods. In fact, according to the interviewees' testimonies, a high rate of torture and ill-treatment occurred during the arrest and interrogation phases of the criminal justice system. Nonetheless, the data also shows a number of cases in which the detainees were subjected to torture and abuse for even longer periods of time (i.e., 10 interviewees indicated from one to more than three months). One person reported being abused three times a week for five consecutive months.





*They took me to their department and put me in an open-air bathroom from 10AM to 4PM under the rain. When they started investigating me, they were beating and insulting me in order to force me to confess to 10 incidents of robbery. They hurt me very much; I confessed to two crimes, which I didn't commit. (Dohuk, January 2014)*

*At 7PM, the \*\*\*\*\* Group came, put a sack on my head, and took me to Sulaimaniya \*\*\*\*\* building near to \*\*\*\*\*. There I was tortured till 12:00 at night using cables, electricity, cold water and pepper spray over my face. They electrocuted my arm, thigh and my genital organs. My shoulders and my thighs turned blue... Later, they brought me back to \*\*\*\*\* where I was beaten for a long time. The prisoners in the lobby saw the torture marks on my body. ...They forced me to sit on my knees for hours, hitting me with kicks, slaps, and punches while asking me again to confess to the murder of a Turkish man. That day, in the transfer building, two men named \*\*\*\*\* and \*\*\*\*\* who were part of that force belonging to \*\*\*\*\* continuously beat me from 2:00 in the afternoon until around 10:00 or 11:00 at night. (Sulaimaniya, December 2013)*

*Once I got out of the car, they put me in solitary confinement until the morning with a sack on my head. The hitting and humiliation started that night; they were beating my feet with plastic pipes, and each time they hit me they were asking me to tell them about the location of four cars that were bombed. They asked me to confess and during the five days they constantly tortured me. During the torture there was a sack on my head; once they finished torturing me, they would put me in solitary confinement and remove the sack...The fifth night, they tortured me until the morning, putting a nylon sack on my head to prevent me from breathing....They did not remove the nylon sack until I passed out; each time I regained consciousness, they restarted the beatings and put the sack back on my head. I passed out several times as they continued until the morning. That day I was signed a false confession. (Sulaimaniya, July 2013)*

*I stayed at [place of detention] for 18 days and I was tortured every night. (Sulaimaniya, August 2013)*

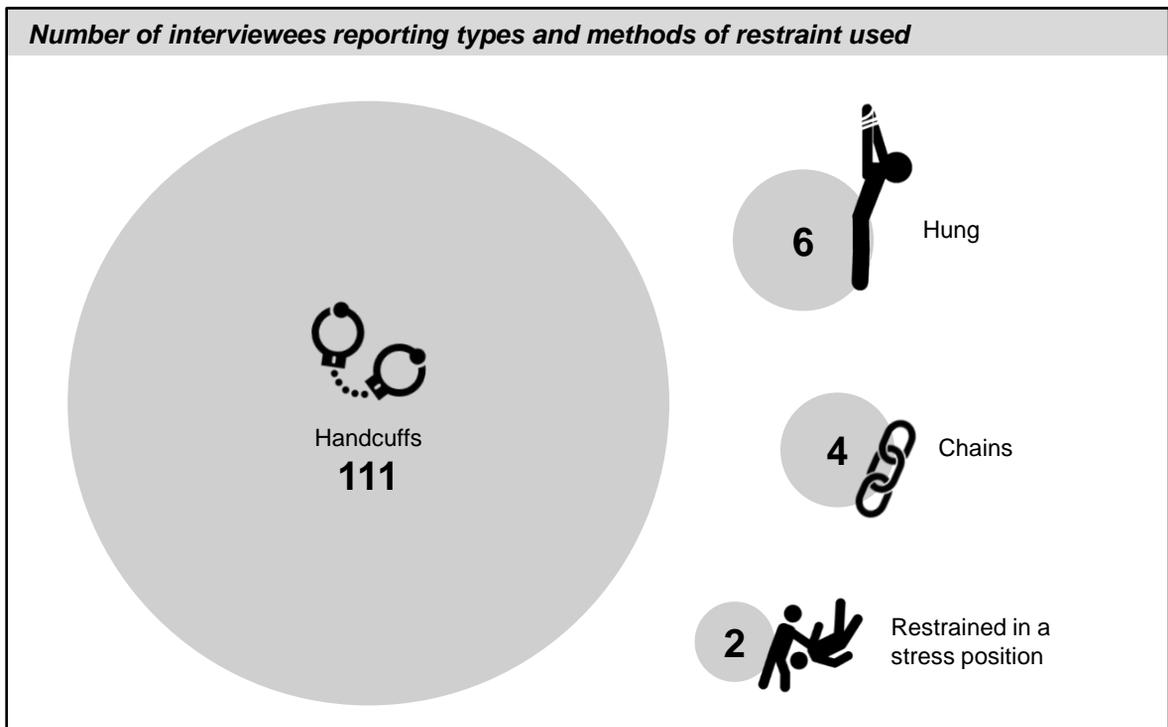
*I was tortured every day, three times a day, for nine days. (Sulaimaniya, August 2013)  
From the beginning I was tortured; for one month and eight days I was tortured every night. (Halabja, September 2013)*

*I was at [place of detention] for a month and a half: they tortured me a lot. (Dohuk, January 2014)*



## 2 - Types and methods of restraint used

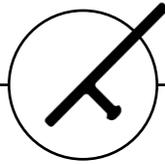
The majority of interviewees (111) were simply restrained with steel handcuffs. However, four interviewees reported being restrained with chains and two reported being kept in the “X” or “crossed position.” Six individuals also alleged being hung.





*On June \*\*, \*\*\*\* I was arrested and taken to [detention center]; they put me there for an hour; after that they hung me from a door. I could neither stand up nor sit down; during the night they were taking us to be beaten with rubber hoses. They poured cold water over me and turned the air-conditioner to the cold mode. They were electrocuting me and beating me with rubber hoses. Afterwards they hung me on a window frame and I stayed there for three days. I told the judge I was beaten but he did not say anything. (Sulaimaniya, July 2013)*

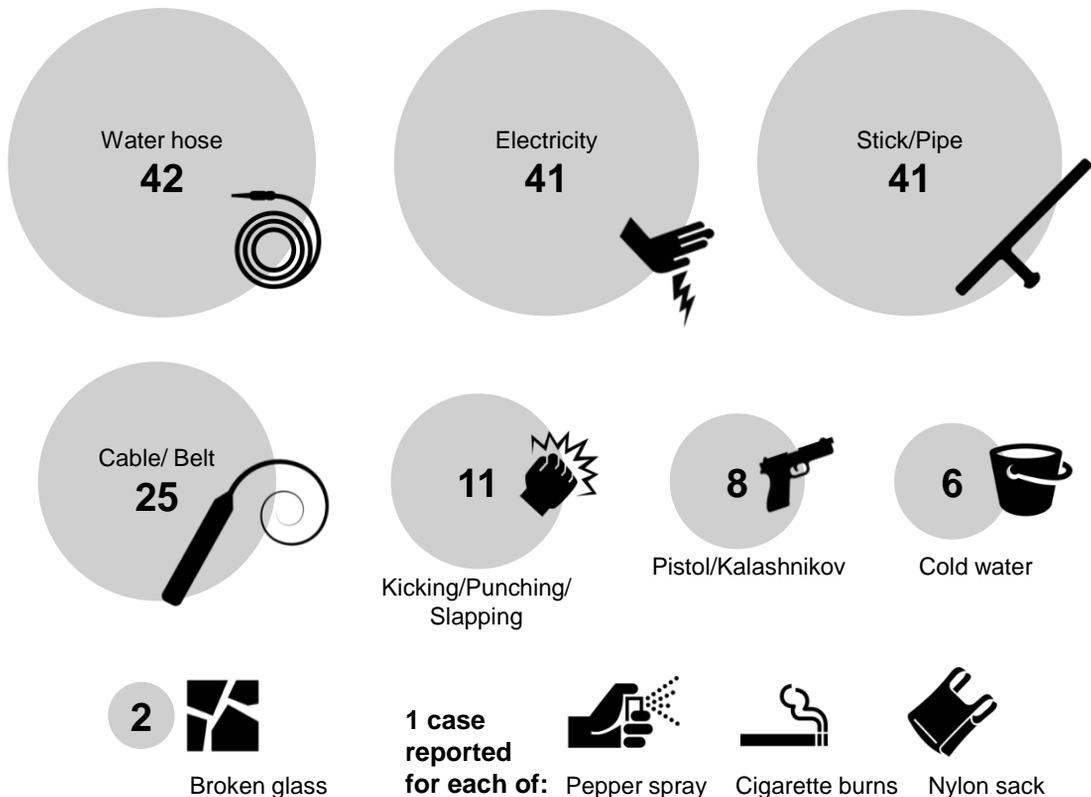
*From the beginning I was put to solitary confinement for a month and eight days and they were restraining me using the right to left method and then kicking my leg bone. They put a sack over my head; I couldn't see anybody. I could hear the voice of the person torturing me. (Halabja, September 2013)*



### 3 - Types of tools and methods of torture and ill-treatment used

A variety of different tools and methods of torture and ill-treatment were used against 89 interviewees. Many reported being beaten with hoses, cables, rulers, sticks, pipes, belts, and/or weapons. Eleven interviewees reported being punched, kicked and slapped and two beaten with broken glasses. A high number of interviewees (41 individuals) were subjected to electricity, either being electrocuted or beaten with electrical devices. Cold water was also used to revive six interviewees who fainted due to the pain suffered.

**Number of interviewees reporting types of tools and methods of torture used**





*Every night they would take me out of the solitary confinement, put a stinky hat on my head, and started torturing me. Sometimes three people electrocuted my thighs and back, while my hands were tied with a cable and pipe. Sometimes in the winter they stripped me off in solitary confinement and squirted a very strong spray into the room that made my eyes weep for a week. They broke two of my teeth but, due to the sharp pain I felt all over my body, I did not notice whether they were punching me or hitting me with sticks. One time I passed out because they hit my chest with a stick.” (Sulaimaniya, June 2013)*

*While being arrested at \*\*\*\*\*, they were beating me; kicking, punching, slapping and shocking me with electricity from my head to my shoulders and penis.”(Halabja, September 2013)*

*They handcuffed me and put a cap on my head; they took me to another room, there they pulled my penis and electrocuted me a couple of times. I fainted multiple times. Another officer, his name was \*\*\*\*\*, was slapping me with each question asked. He lashed me with a rubber hose, and extinguished a cigarette on my palm. [He] said: “If you don’t speak up, I swear to God that I will kill you with my pistol.” For every “no”, I received slaps and kicks, and in the fear of pain, electric shocks, and pulling my male organ. I said, “write what you want and I will sign on it. (Sulaimaniya, February 2013)*

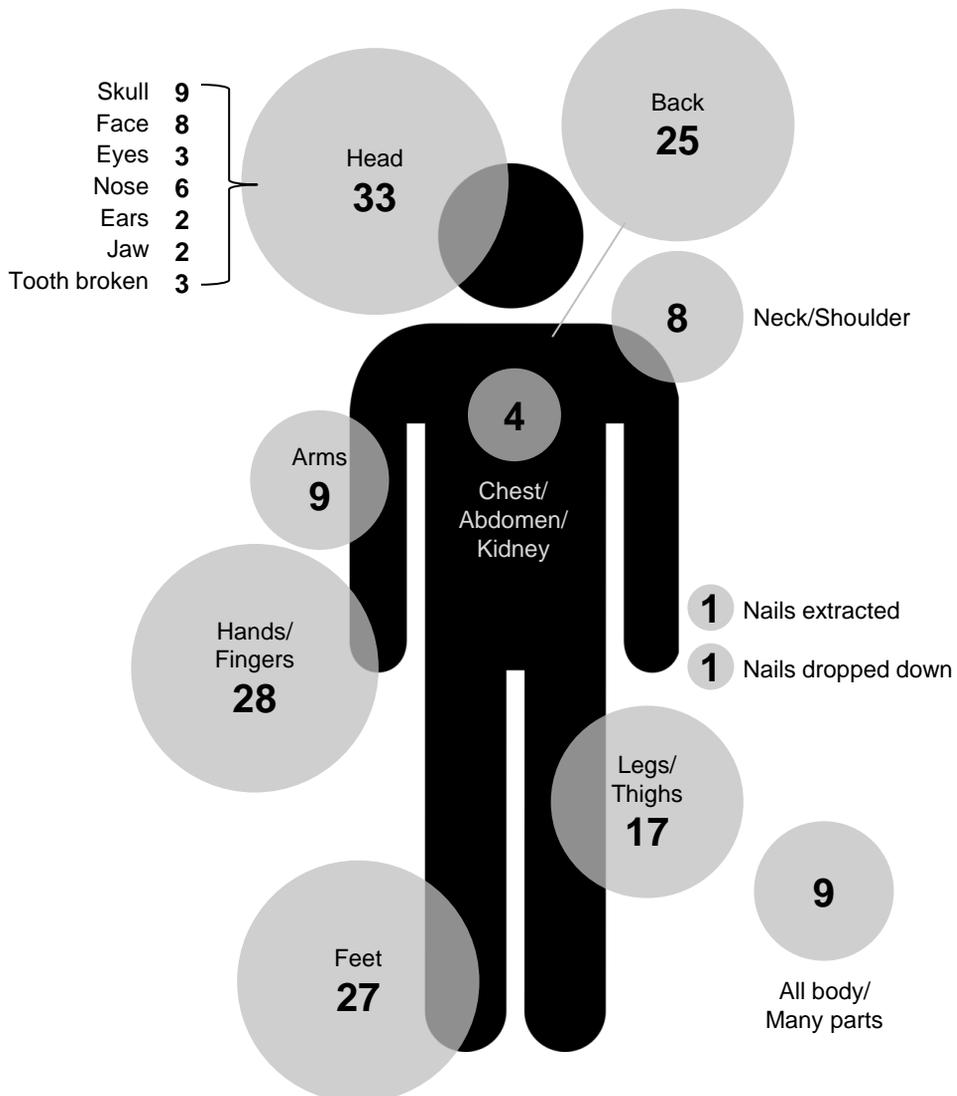
*At the beginning, when we went to the \*\*\*\*\*, they started asking us questions but later on they began beating us. At the beginning they were slapping me; afterwards one of the police had me lie down and started beating the bottom of my feet with a rubber hose for 10-15 minutes, then they left me till the night. Later at night they slapped me, beat me with a rubber hose and electrocuted me with a small device; they hung me, blindfolded me, and continued this way, most of the time beating me with a rubber hose. Due to the repeated beating of my hands and fingers with a rubber hose, I still have numbness in my fingers. Because I was blindfolded, I did not know who the individuals beating me were; we were blindfolded every time we were taken to be beaten. (Sulaimaniya, July 2013)*



## 4 - Parts of the body injured by officials

One hundred and fifty interviewees reported having different parts of their body injured by officials as a result of the torture and ill-treatment described. A significant number (25) reported having their backs injured, and numerous individuals reported injuries to hands (28) and feet (24) due to being beaten and held in stress positions. According to the survey, many parts of interviewees' bodies were injured. This includes upper and lower body parts, as well as injury to the internal organs (such as kidneys) and to face and teeth. Two interviewees reported their nails injured, either because they were extracted or because their nails fell off due to the severity of the torture.

**Number of interviewees reporting parts of the body injured**





*They immediately arrested me and blindfolded me with a black piece of cloth, and then they put me in a private car and not a police car. Inside the car they slapped me, punched me a lot, and cursed me. When they let me out of the car they put me in a room; three other people (not those who arrested me) came and started beating me with wooden sticks, pipes and a rubber hose; they hurt me a lot and kept me there for two days. They were constantly torturing me and, as a result, my body was bruised and I lost one of my fingernails because of being hit with the wooden stick. (Sulaimaniya, October 2013)*

*Five to six people started beating me; they punched me, slapped me, and kicked me. They also used an electric stick, a rubber hose and a plastic pipe to beat me. Mr. \*\*\*\*\*, was coming in and telling the others to beat me. In one instance they beat me so much that I lost consciousness. Both my thighs and my back were bruised, and a part of my face was completely swollen. (Sulaimaniya, July 2013)*

*In the morning I was taken and beaten a lot. My mouth was stuffed full of fabric and I was about to choke. My nose was broken. I had an asthma attack because of the fabric in my mouth. They left me for three hours and then started [beating me] again with cables and an electric stick. In the morning they came again and asked me to confess. I said I did not do anything; they threatened to torture me again. They beat me so much...I was very scared so I confessed. They kept me in the [place of detention] for eight days, and then they sent me to the detention center to allow my injuries to heal. When I saw the judge I did not say anything as I was afraid they might beat me again. (Sulaimaniya, August 2013)*

*My head and all my body became blue [with bruises]. Most of my nails dropped off. (Sulaimaniya, July 2013)*

*My leg became blue, my ankles are injured, the bones in my fingers and hands were and my right foot is dislocated. (Sulaimaniya, July 2013)*

*All of my body was injured except for my head and face. (Halabja, September 2013)*

*Underneath my feet was swollen and my body was blue. (Sulaimaniya, August 2013)*

*Two of my teeth were broken. (Sulaimaniya, May 2014)*

*They threatened to bring in my wife and family and rape them and kill them in front of my eyes. They were also torturing other detainees in front of me, I can't mention how right now, but I can say this type of torture was not even done during the Ba'athist regime...As a result of my torture, my eye and leg suffer from injuries...I lost the sight in one eye, and during torture they were forcing me to stand for six hours repeatedly. (Erbil, August 2013).*



## 5 - Severity of pain

The pain suffered by 98 detainees and ex-detainees interviewed was described by many<sup>58</sup> as “very bad” and “unbearable”. Examples of how interviewees described the pain inflicted on them through the use of torture and ill-treatment include the following:



*He kicked the front bone of my leg, and as a result, I was unable to move [my leg] for one week. He would handcuff me, put a stick between my hands, and twist it. It was unbearable pain, I felt like I was dying. He hurt my body and my heart and humiliated me by putting my head between his legs and pulling my head as if he wanted to get it out of my body. After beating me, he would pour water over me and leave me in the cold. One day I was hurt so much that I decided to go on a food strike...my urine was bloody but I couldn't see a doctor, even though I asked. (Halabja, September 2013)*

*They were degrading me by wanting to see whether I am circumcised or not. All this was in the cold winter. Later another group came, handcuffed me, and tied fabric between my hands and my shoulders to make my muscles stretch. They sat me down and pulled my leg; they hit every muscle on my thighs. Then, they forced me sit on my knees, got a metal pipe, and put it on my legs: two people stepped on each side of the metal pipe, my legs nearly broke and my shoulder dislocated and broke. As a result of the torture, my shoulders became numb and are still not working properly. After all this, someone else from the political section came and tortured me. There was a garden in that house, covered with snow, I was only wearing shorts and I was handcuffed. He ordered me to roll in the garden until I was frozen, then he put me back inside bare foot on the cold floor and left me standing naked until the morning. The handcuffs were so tight that my hands became so swollen that when they wanted to remove the handcuffs they could not, so they had to break them off. (Sulaimaniya, September 2013)*

### **Below are examples of how detainees describe the pain inflicted:**

*[The pain was] so intense that I became unconscious; at that time they left me, and after some hours they started again.*

*[The] electric shocks made you faint and they will not release you until you bleed. (Sulaimaniya, July 2013)*

*My pain was so much that I became like a crazy person. (Sulaimaniya, September 2013)*

*[The pain] was so much that I fainted two times and when I fainted they would pour water over me and shocked me with electricity to regain my consciousness. (Sulaimaniya, December 2013)*

*I felt like my body was being disassembled. (Dohuk, January 2014)*

*I felt like I was dying. (Dohuk, February 2014)*

*My pain was so strong that I had difficulty breathing. (Sulaimaniya, August 2013)*

*The pain was so intense that all my body was shaken and frozen. (Halabja, September 2013)*

*I couldn't sleep for some nights because of pain. (Sulaimaniya, October 2013)*

<sup>58</sup> Those allegedly tortured.



## 6 - Psychological torture and ill-treatment

One hundred and fourteen interviewees reported that they were treated disrespectfully, and were subjected to insults and swearing. When interviewed, individuals reported that these insults were primarily directed against themselves (79); their honor (13); their family member or clan (34); their sect and doctrine (3); or their political view (1). Fourteen people were threatened with death or threats were made against their family (either that their family members would be arrested hurt or raped) if they didn't confess.



*The \*\*\*\*\* came, locked the door and threw the key under the table. He started swearing on me, calling me bad names, and then opened his trousers zipper, taking out his penis while approaching me. I was not able to look at him. I begged him to leave me alone; he put his hand on my breasts. I begged him again: "please leave me; I will do whatever you want". He asked me to confess that I killed my husband. He made me put my fingerprints on a written statement. He threatened me: "Do not tell anyone about this, because no one is going to believe you." (Erbil, June 2013)*

*The pain started from the minute they came to my home in the night, when I was told over the phone that the \*\*\*\*\* force had raided my home...they broke all the windows and the doors and entered. My children were very scared and they still are fearful. When I went to \*\*\*\*\* , they arrested me and constantly tortured me psychologically by saying they would bring my wife in and do things with her, or saying I did not know whom my wife was sleeping at that moment. They told me they would let me free and go back to my family if I confessed. (Sulaimaniya, September 2013)*

*I was tortured physically and psychologically. For example, they shouted from behind the door that they were doing bad things with my wife; I was knocking the door and asking to see my wife but they said she was not there and they did not know where she was. I replied that I heard her voice, but they kept saying she was not there. After this, four people came to torture me using cable and a broom. They poured water over me in those cold days and hit me till I passed out. When I regained consciousness, I found myself shackled; they did that to me three times. I was asking to see my wife many times, but they did not allow me. In the solitary confinement room, there was a string under the blankets, and a string and razor by the door to motivate me to commit suicide. (Sulaimaniya, September 2013)*



## 7 - Perceived reasons for the torture and ill-treatment

As in Baghdad, the majority (122 individuals) of interviewees in the IKR believed that the reason for their torture was to force them to confess (106) or to extract information (6). Additionally, others (10) claimed having been tortured as a form of punishment or for the sadistic pleasure of perpetrators.

**Number of interviewees stating the perceived reasons for torture and/or ill-treatment**



*They were punching, slapping, and electrocuting me, as well as hitting me all over my body with wooden sticks. They stripped me naked and were insulting me. When they were beating me I lost consciousness multiple times; they would pour cold water over me so I would regain consciousness. With each session of torture, they were asking me to provide information on the people who killed the owner of the \*\*\*\*\* company where I was working as laborer. They kept saying to me “we know you did not participate in the murder, but you have information about those who committed the crime....” But because I did not have any information, I could not answer their questions. I did not see any of the people who tortured me as I was blindfolded... I was tortured from 10:00AM until into the night. Afterwards they stopped torturing me and told me that the main culprits were in custody and had confessed to the crime. (Garmyan, July 2013)*

*I was tortured into confessing to a crime that I didn't commit and did not even participate in. (Garmyan, February 2013)*

*I was tortured to confess the crime they assigned to me. (Sulaimaniya, September 2013)*

*Firstly they were torturing me to confess but later just for their own enjoyment. (Sulaimaniya, September 2013)*

*They beat me to confess and also to make me confess to other things. When they make someone confess, this is a victory for them; they will be allowed to take one week off and go home. (December 2013)*

*I was tortured to confess but sometimes for their self-enjoyment. They were making jokes about me; they blindfolded my eyes, and rode me as if I was a motorbike. (February 2014)*



## 8 - Detention conditions

### A - Adequacy of the food provided

Ninety-one people stated that the quality of the food was bad and that the quantity was insufficient. Additionally, 12 detainees had to either buy food by themselves or their families had to bring them food. Interviewees reported that food and water deprivation was used as a form of punishment as well as a form of torture.



*I was tortured psychologically. They would let me use the toilet only two times a day and I had one minute for eating. I had been in this situation for two years in [place of detention]. They allowed me to clean myself every six months. I was using my meal dish for toilet purposes as they often did not let me use the toilet at all. They would beat me with a cable...My beard grew long and they did not let me shave so to make the Americans believing that I was a terrorist...God testifies that I was crying in hunger. I asked to be seen by the court several times, but it was useless...I was thirsty, in the hot and in the cold. In the night, they were taking me out into the snow and threatening me with the dogs. (Sulaimaniya, September 2013)*

*I faced beatings and torture; they hardly let me to go to the bathroom. The food was full of camphor. (Sulaimaniya, December 2013)*

*I was left in solitary confinement for two to three days, without food or water, before my statement was taken. (Sulaimaniya, June 2013)*

*The drinking water is dirty and polluted, and we now have issues with our kidneys. (Halabja, September 2013)*

*The food was not enough; it was full of fat and cold. When the food was tasty, the guards were not giving it to us. (Sulaimaniya, May 2013)*

*The food was dirty and not enough. I was afraid the food was poisoned. (Erbil, August 2013)*

*The quantity of food is not sufficient because they provide food only for me and then I must give it to my two children.<sup>59</sup> (Sulaimaniya, August 2013)*

*Our drinking water is so bad I got kidney stones. (Halabja, September 2013)*

*There was no food. They did not even allow us to raise our heads. (Sulaimaniya, May 2013)*

*The food was very bad and as a result I lost 30 kg. (Sulaimaniya, September 2013)*

<sup>59</sup> Women interviewed

## B - Adequacy of sleeping arrangements

Sleeping arrangements were reported to be inadequate by 118 interviewees. Rooms were described as overcrowded, lacking basic sleeping supplies, such as mattresses and blankets, and unhygienic. Particularly poor sleeping conditions also were inflicted as punishment.



*Two masked men came and took me to another solitary confinement room where I stayed for a few days. This room was not even suitable for animals; there were many insects, and rats in the room. The floor was not covered and I was barefoot. The most savage thing that happened was when they put water in the room in the cold winter so I could neither sit nor sleep, and when we asked for blankets they did not give us any. We stayed in that water for days. Until now, my legs are numb and I immediately get pain if it is a bit cold. After a while, two men came, handcuffed me, and pointed a gun at me; they told me to move and took me to a lobby where there were more than 20 people. They put me in a dark, damp, and cold room where I stayed for one year. Whenever I asked to see my wife, two masked men came, handcuffed and tortured me. After one year, they allowed me to see my wife for five minutes. Not even animals could have dealt with the things they did to me during the time I spent there. During that year, I was staying in a room 1 x 1.80 meters, which was only enough space to lie down. I was only permitted to go to the toilet twice a day for two minutes... We were able to wash every four months for only five minutes ... I got a skin allergy. One day it was full of fleas that bit my whole body and the effect of cold in winter meant my legs were very painful and I could not bear it; I asked them to mutilate them, but they said it was not their business. (Sulaimaniya, September 2013)*

*The room is dirty with a bad odor. (Garmyan, June 2013)*

*There is only one blanket for two people. (Sulaimaniya, July 2013)*

*It is so crowded; there are 59 people in one hall 10 x 5 meters wide. Half of us sleep on the floor. (Garmyan, July 2013)*

*At the [place of detention], I was kept with my hands and arms restrained with steel handcuffs to the side of a staircase for 3-4 days. (Sulaimaniya, July 2013)*

*In [place of detention] they didn't let me sleep for three days, then I stayed there for two years in a 90 x 160 centimeter room... In [place of detention] I was kept in a chair for a month and the ground was covered with water. (Qala-Chualan, September 2013)*

*Our sleeping place is so bad and uncomfortable; we are 18 people in one small 5 x 3 meter room. (Sulaimaniya, January 2013)*

*Here in detention is good, although overcrowded. However, at the [place of detention] there was nowhere to sleep; they put me out in the rain and tied me to a metal door. (Erbil, May 2013)*

*At the beginning I was in a solitary confinement room and didn't have a sleeping place for 40 day. (Sulaimaniya, December 2013)*

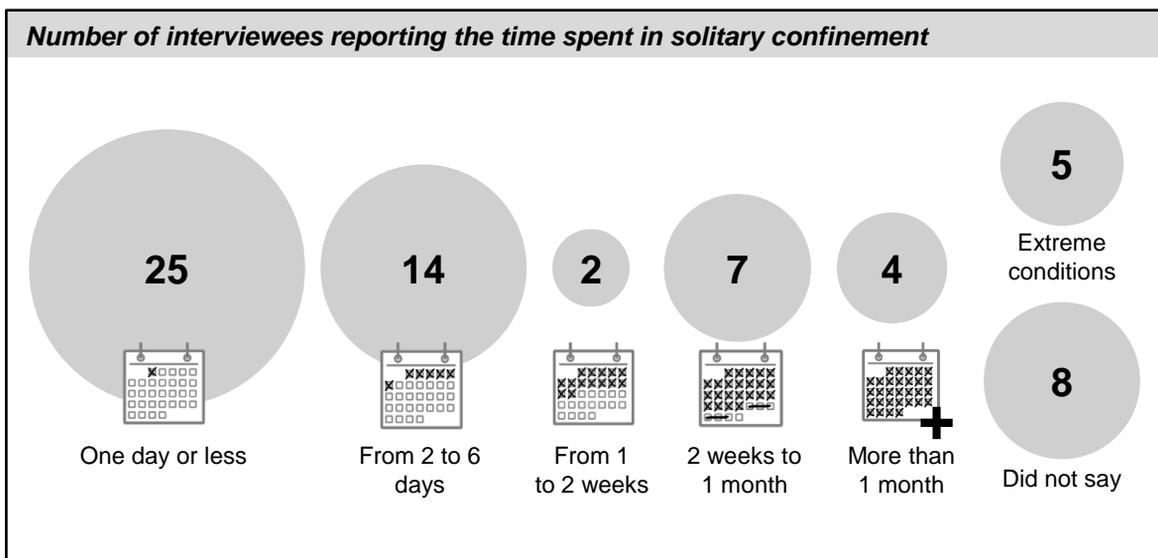
*We were standing on our feet till the morning. (Sulaimaniya, May 2013)*

### C - Use of solitary confinement

Sixty-eight interviewees indicated that they were held in solitary confinement for various amounts of time. Of these, the majority (41) reported that they spent anywhere from two to six consecutive days in a room alone as a form of torture or punishment, while others reported being held for different amounts of time within one-week to one-month periods. Four cases reported being held in solitarily for more than one month and five cases alleged extreme conditions, as follows:



*First they threatened to rape my wife and kids and disgrace my family in the media. Later they cursed me and used nasty words; afterwards they blindfolded me and beat me with wooden sticks, slapped me, kicked me, and twisted my upper arms and hung me for hours. They also put me in solitary confinement, and isolated me from the outside world.” (Sulaimaniya, December 2013)*





### **Some of the detainees gave descriptions of their solitary confinement room:**

*A 1x2 meter room with 20 centimeter window, one light blanket and with the toilet in the same room. [Duration of confinement: five months and 20 days] (Erbil, August 2013)*

*A dark, narrow, wet and humid place.*

*[Duration of confinement: one year and four months] (Sulaimaniya, September 2013)*

*A 90 x160 centimeter room. The room was so cold and dark that the door was frozen; they had to use force to open the door.*

*[Duration of confinement: two years and four months] (Sulaimaniya, September 2013)*

*A room 1.5x3 meters.*

*[Duration of confinement: four months] (Erbil, April 2014)*

*It was a room 100x80 centimeters, without a window. We were urinating inside the same room into bottles and they were pouring water over us.*

*[Duration of confinement: 1 month and 8 days] (Halabja, September 2013)*

*It was a toilet.*

*[Duration of confinement: 1 day] (Sulaimaniya, August 2013)*

*A 2x1 meter room...there was blood on the wall, there was a rope; it was so dirty, with no windows and it was dark.*

*[Duration of confinement: 15 days] (Halabja, September 2013)*

*A 1.5x1 meter room.*

*[Duration of confinement: 18 days] (Halabja, September 2013)*

*They put me in solitary confinement in a room 1x2 meters, with a 20 centimeter window. Every day we had 10 minutes to use the shower and toilet, and we had to buy the soap and detergent ourselves. In the solitary confinement room they would use cold air in the winter and hot air in the summer. (Erbil, August 2013)*

*Someone kicked me and knocked me down, then someone else came and lifted me up; after two hours, four people came and threw me into a room with my hands and legs tied: it was 2x1 meters, very filthy, with blood on the walls, without windows or light and there was a hole in the door for passing food through. They brought me some dirty beans every day. In the night the room was very dark, I stayed like that for six days. Afterwards, I was taken and asked questions, such as if I knew some bad men there, who they were, and what was my relation with them... They took my photo while I was blindfolded three times and this made me very upset and I wished to kill myself because I was scared they would publish my photos on TV and shame me. (Halabja, September 2013)*

*It was so small I couldn't sit; air did not flow freely and it was dark with a small window (Sulaimaniya, November 2013).*

*I was in a hall that was 4x5 meters and there were nearly eight people but I wasn't allowed to speak with them. (Erbil, December 2013)*



## 9 - Access to healthcare

One hundred and nine interviewees stated that prompt access to health care was not given. Doctors visited only 150 people (out of 255 interviewed in the IKR) while they were in detention. Of the 70 people who needed medicine, 51 stated that they were either not provided with medicine or what was provided was inadequate.



*The judge listened to my statement related to the torture I had endured and looked at the soles of my feet, which had turned black. The judge decided to refer me to a medical examination. However, the \*\*\*\*\* delayed the referral of 25 days until the blackness of my feet healed. When they took me to the doctor to examine me, there were no torture marks on my body. The doctor reviewed the judge's referral decision, which talked about torture and beating marks, and felt that I was brought for the examination too late. The doctor wrote his the report, stating that there was beating marks my body. However, the Sulaimaniya investigation judge did not allow me to talk about the torture. (Sulaimaniya, September 2013)*

*We are exposed to the sun once a week for one hour. The prison's dirty water has caused us kidney issues. One man got tuberculosis; he was not separated from us, even though this disease is contagious. We were permitted to use the bath once every four days. (Halabja, September 2013)*

*There is no access to healthcare. I have a mental-illness which requires medication. If I do not use my medication I have psychological problems. However [when I asked for my medication] the guards became angry at me and doctors do not help me. (Halabja, September 2013)*



## 10 - Use of bribery

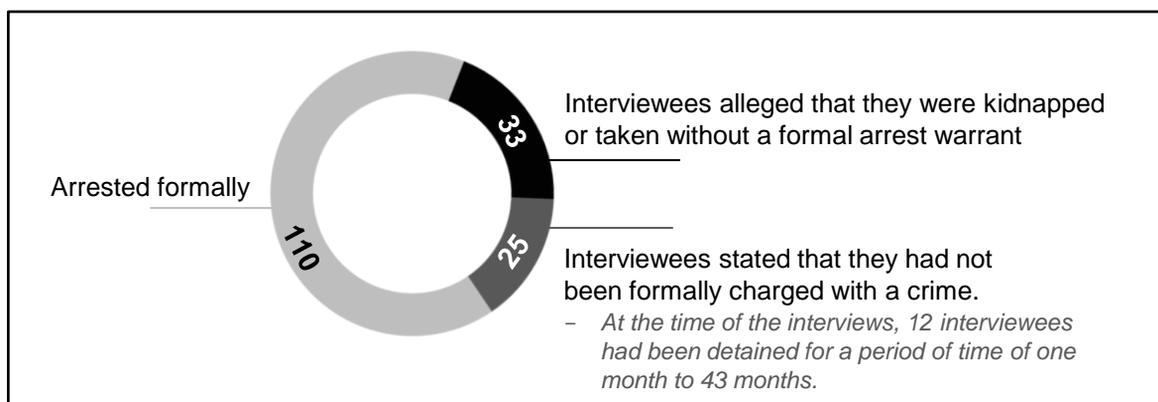
Eight people were forced to pay bribes, five in order to be released and three for unknown or unspecified reasons.



## 11 - Legal procedure

### A - Arrest and formal charge

The results of the interviews conducted show that the right to be formally arrested and informed of any charges against him/her<sup>60</sup> is not fully applied to all interviewees.



On \*\*\*\*\*, 2011, I went to \*\*\*\*\* market in \*\*\*\*\* to buy household items after Asr prayer. Seven individuals who were wearing civilian clothing surrounded me. They asked me to go accompany them. I asked who they were and where was the judicial warrant for my arrest. They told me there was no judicial warrant and they needed me. At that time I was very scared as I thought they might be terrorists who were abducting me for money, as they did not show me any ID or written paper. In addition, they used a plain \*\*\*\*\* vehicle with a civilian license plate number...they forced me into the car, handcuffed me and told me I was indicted by \*\*\*\*\*. Later they took me to the [place of detention]. (Erbil, August 2013)

A group of \*\*\*\*\* forces raided my home in a very indecent, inhuman and illegal manner, insulting and threatening me until I put on some clothes. They pulled me barefoot into a car. My wife was holding my hand and asking where they were taking me. They insulted her and pushed her away and then one of the \*\*\*\*\* officers said to bring her too; thus they arrested my wife along with me. (Sulaimaniya, September 2013)

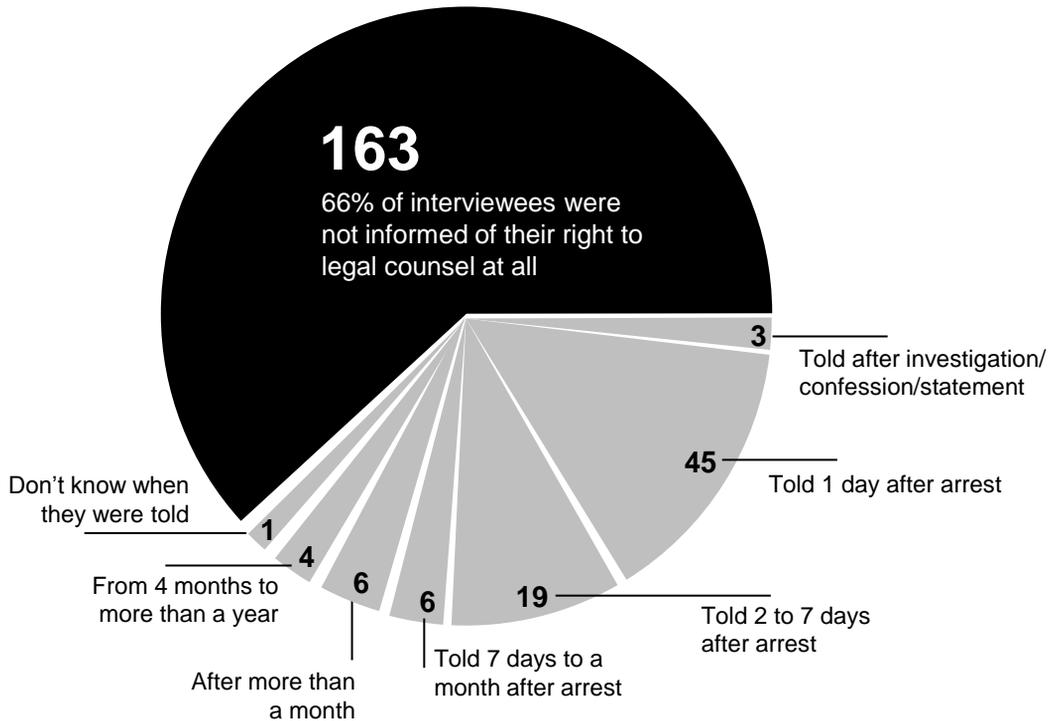
They kept me in a solitary confinement for two years and four months without informing me of the charges against me. They did not have any evidence or confessions against me...They changed my life and ruined it. Before I was captured, my weight was 100 kilos, when I was released I was 48 kilos. (Sulaimaniya, September 2013)

<sup>60</sup> ICCPR, Article 9 (2)

## B - Right to legal counsel

Many detainees (163) were never informed of their right to legal counsel, as required under Iraqi and international law, or they were informed after a delay.

**Number of interviewees reporting the time span before being informed about their right to legal counsel**



*The judge \*\*\*\*\* asked me on the phone to come to detention center to give my statement. I wanted to talk about the torture I had endured but he did not listen to me. My only request was to be able to give my statement in front of a lawyer, but they did not listen to that either. I signed the statement without anyone reading it to inform me of the contents. (Sulaimaniya, December 2013)*

*They started beating me on the street; they broke one of my teeth and injured my body. Blood flew from my nose and mouth. They took me to the [place of detention] and tortured me for a week. I asked for a lawyer, but they beat me even more. They said, "There are no lawyers for you." I told the judge about this and he did nothing but spoke to the policemen angrily. (Dohuk, February 2014)*

*During the arrest I was treated so badly. Then I was in solitary confinement for 15 days to force me to confess to the crime; they did not take me to \*\*\*\*\* detention and transfer, they only let me stay at \*\*\*\*\* police station. I was not allowed to see anybody; my lawyer wasn't able to see me. (Garmyan, June 2013)*

## C - Right to be brought before an investigative judge within 24 hours

One hundred and forty-nine interviewees stated that their right of being brought in before an investigative judge within 24 hours was breached.



Among the 16 people who waited more than one month, 9 people waited six months or more before being brought before a judge

- Two of these were detained 28 and 30 months before being brought before a judge

Of the detained interviewees, 18 persons haven't seen a judge till the time of interviewing. They spent the following periods in detention:

- Seven people have been in detention without seeing a judge from 12 days to nine months.
- Five people were in the detention center without seeing a judge from one to three days.
- Three people are in the reformatory without having had a formal trial
- Three people were detained, have not had a formal trial and now they are released – of those three, one had been detained for one year and seven months, one for 17 days, and one for 15 days.

## D - Length of pre-trial detention<sup>61</sup>

At the time of their interviews, 188 people stated that they had not received a trial. Ten were released without trial: 7 were released within one month after the arrest; one person was detained for three years and seven months without receiving a trial before being released; one person for two years; and another person for one year and three months. The other 178 were still detained at the time of the interview.

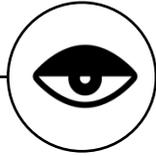
**Number of interviewees reporting the time spent in pre-trial detention before being released**

Up to a month	60
Pre-trial detained from 1 to 6 months	113
7	6 months to 1 year
4	More than 1 year
4	Don't remember



*I was arrested for 150 days; along with me 13 other people were captured and charged with the same crime. We have not seen a court; we were just being investigated by some people who we thought were \*\*\*\*\*. Among the people with me, none of us were given a trial. One day, someone came and told us to get ready, they blindfolded us, and took us to a place; we knew that it was the \*\*\*\*\* \*\*\*\*\*. They untied our eyes, asked us to shave, get a haircut and have a bath; they said we would be released the day after. We asked why we were arrested. We were told not to go to the borders and, if we had to go, to notify \*\*\*\*\* first. We were told to inform our families to pay the bail for our release. My uncle \*\*\*\*\* \*\*\*\*\* paid my bail and after two nights at \*\*\*\*\* I was released. (Halabja, September 2013)*

<sup>61</sup> According to Iraqi Criminal Procedure, Article 109, the total period of detention should not exceed 6 month, unless upon approval of the Felony Court. Internationally, the ICCPR, Article 9(3), requires that "anyone arrested or detained on a criminal charge...shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subjected to guarantees to appear for trial."



## 12 - Witnesses for the use of torture and ill-treatment

In the majority of cases (71 interviewees), individuals who alleged that they were subjected to torture had no other detainee witness the abuse.



*One time I was hung to a metal fence for one hour in the \*\*\*\*\*; when they untied me, my hands were numb. When I was taken back to the reformatory, no one asked me questions about how the \*\*\*\*\* dealt with me, so I did not mention anything. Some of the other prisoners saw the marks of my body, but now these marks have healed. I did not talk about the torture in front of the judge because I felt that he would not care about such matters. I was sentenced for six months and I should now be released after one month, but there are three other motorbike stealing cases against me and I do not know what will happen. (Sulaimaniya, August 2013)*

*During my arrest, they showed me two friends of mine, who had also been arrested; they tortured them in front of me and hung them up. They told me if I did not confess, they would hang me up too. One time, they brought a friend of mine who confessed against me under torture: he testified that I had contact with \*\*\*\*\* and that I participated in a bombing. (Sulaimaniya, July 2013)*

## EFFECTIVENESS AND CONSEQUENCES OF TORTURE

*“The strong will resist and the weak will say anything to end the pain.”*

*Ulpian  
Roman Jurist, 170 AD*

*“If you are preoccupied with terrorism, or with citizens’ insecurity, then you should be worried about torture because torture only breeds more crime and more terrorism. It is also completely untrue that it is an effective way of obtaining information and evidence. Much beyond that, it just generates... distrust in the police and interrogators.”<sup>62</sup>*

*Juan E. Mendez  
UN Special Rapporteur on Torture*

### Studies on the ineffectiveness of torture

International consensus has firmly established that torture is never justifiable under international law. Furthermore, research has definitively demonstrated that torture and other cruel, inhuman or degrading treatment are ineffective methods for obtaining reliable intelligence information.<sup>63</sup>

Nevertheless, torture continues to be used because of the so-called “torture myth”, which supports coercive methods of interrogation. However, the torture myth relies on three flawed assumptions:

1. Torture is only used when it is clearly established that the victim has strong ties with terrorism;
2. Torture is only used when the information possessed by the victim is vital for the safety of the wider community; and
3. Torture is an effective tool of interrogation.

The torture myth should be dismissed on all three accounts. First, once torture is introduced into the criminal justice system as an interrogation technique, it has a tendency to become pervasive within the system. It is difficult, if not impossible to restrict the use of torture to a limited number of individuals and circumstances. It has been noted that by its very nature, torture controls the *torturer* as much as it controls the victim; in effect, “torture is its own master.”<sup>64</sup> Therefore, torture is not only used on so-called terrorists, but also on common criminals and ordinary members of the community.

Second, there is no certainty in knowing who is in possession of relevant information. Moreover, coercive power used in torture interrogations induces fear and self-protection mechanisms for the victim who may be forced to admit to what the coercer accuses, regardless of the truth. This makes a cost-benefit analysis for the protection of the wider community impossible because any information obtained is more likely to

<sup>62</sup> Video source available at: <http://www.opensocietyfoundations.org/voices/torture-it-can-happen-anywhere>

<sup>63</sup> Intelligence Science Board, *Educing Information: Interrogation: Science and Art*, NDIC Press, Washington DC, 2003, p. 130.

<sup>64</sup> J. Bell, *One Thousand Shades of Gray: The Effectiveness of Torture*, IU Law-Bloomington Research Paper No.37, 2005, p.18.



result in proffered misinformation, misdirection, and lies.

This leads to the third false assumption of the torture myth. The very nature of interrogation relies upon the presumption of guilt. This presumption influences the interrogator's behavior through a process called "behavioral confirmation." In the case of trained interrogators, there is a tendency to presume that suspects are lying to them. As a result, interrogators are more inclined to torture innocent suspects who they perceive as resistant and defiant in interrogations. However, the use of physical coercion can lead to "false positives" – individuals who are wrongly presumed to be lying will often confess under conditions of torture to a crime that they did not commit, and individuals who are actually telling the truth will be seen as liars.<sup>65</sup>

The use of torture is cruel, ineffective, and leads to counterproductive and unreliable results. Acting on false information is dangerous not only in human terms; it undermines trust in government institutions as well as the effectiveness and accuracy of the criminal justice system.

97 people were asked to confess or convey information during the arrest and interrogation:

- 30 of the 34 did not give the information requested and were subjected to torture or ill-treatment
- 54 of the 63 who indicated that they gave untrue information were subjected to torture or ill-treatment

163 people were asked to confess or to give information during the arrest and interrogation:

- 33 of the 35 who did not confess or give any information were subjected to torture or ill-treatment
- 28 of the 29 who alleged that they confessed false or gave false information were subjected to torture or ill-treatment

*For the first seven days ... they handcuffed me at night and put a bag over my head. Then they took me to the investigation room. I could hear from the voices that there were several people. The officer was asking me to confess to crimes that I didn't commit. When I denied the crimes, they started beating me very hard and swearing at me, calling me bad names. Then I confessed. (Baghdad, May 2013)*

*The confessions taken were fake; during the investigation procedures it was discovered that there were no such an accidents; they invented the incidents in order to arrest me. Although the court realized that the charge was invented, it did not take any action towards the secret informer. (Baghdad, August 2013)*

*They started hitting me and asking how we took the safe. I kept saying I did not know anything, but they tortured me constantly...they tied my thighs with my belt and tied my legs firmly with a plastic string. Then, one [of the officers] lifted my legs and while the other hit the soles of my feet until they were swollen. I passed out because of the pain and when I regained consciousness I was wet as they had poured water over me. Once I regained consciousness, they asked me where the safe was. I had no idea; they accused me of stealing the safe because I was previously arrested over a robbery ... They told me that they would help me if I confessed. Because I was tortured a lot, I confessed to something I did not do. (Sulaimaniya, August 2013)*

*When they took me to the [place of detention] , at night three people tortured me with a stick, a plastic pipe and threatened me with an electric stick. They told me that if I did not confess, they would hit me with the electric stick. To be released, I told them that I would sign anything they wanted. (Sulaimaniya, June 2014)*

<sup>65</sup> M.A Costanzo, E. Gerrity, 'The Effects and Effectiveness of Using Torture as an Interrogation Device: Using Research to Inform the Policy Debate' in *Social Issues and Policy Review*, Vol. 1(1), Dec 2009, pp. 179-210.

## Psychological effects of torture

Torture is not only ineffective as a method of interrogation and as a means for obtaining accurate information, it also leaves its victims severely damaged, and it affects not only the individual but also their families and entire communities, and thereby society as a whole.

### ***Defining Trauma as a Result of Torture***

Trauma occurs as the result of a psychologically distressing event that is outside the range of usual human experience and typically involves a sense of intense fear, terror, and helplessness. This includes experiencing or witnessing an event that is life threatening to the person or to someone close to the person, such as torture, war, terrorism, natural and manmade disasters, or serious car accidents, for example. In particular, torture is used as a way to inflict pain to the extent of “destroying” or “breaking” a person’s psyche, but not to kill him or her, in order to extract information or force a confession. This inevitably creates trauma, the symptoms of which manifest socially, emotionally, psychologically and physically and often cause long-term or permanent impairment on functioning.

### ***Consequences for the Individual***

Torture causes significant damage to the person it is inflicted upon. Few people only experience the short-term effects of torture, such as the physical wounds. Most are left with deep, visible scars as well as invisible psychological wounds for many years, if not a lifetime, following the event(s). Some of the most common symptoms that torture survivors suffer from are chronic pain in parts of the body or chronic headache/migraines, physical disability,

depression, anxiety, insomnia, nightmares, memory and concentration difficulties, tendency to feeling irritable, and having difficulties with anger management or impaired impulse control.

Many torture survivors also suffer from Post-Traumatic Stress Disorder (PTSD). Symptoms include recurring emotionally disruptive memories related to the trauma, or traumatic nightmares, which can cause insomnia and make it difficult to concentrate, learn, and focus. Individuals may experience dissociative reactions such as flashbacks, which may be brief re-experiences of the trauma or longer episodes resulting in a complete loss of consciousness. They may occur at any time, making it difficult to work, go to school or interact with loved ones. Tendencies to avoid people, places or things, emotion and memories that can trigger the trauma can make everyday activities like shopping or taking the children to school difficult and there are direct ramifications on the individual’s ability to emotionally regulate him/herself (i.e. know what one is feeling). Survivors of torture also commonly feel frustration, irritability, aggressiveness, anger, guilt, shame or resentment toward themselves or others. They often feel alienated and may adopt negative or distorted views of themselves and others. Some survivors also experience dissociative amnesia, which may impair one’s memory of the trauma itself. Due to this, many survivors feel ashamed to share their story or feel that their account is viewed as inconsistent and therefore untrustworthy.

Any combination of symptoms commonly caused by trauma through torture, such as anxiety, depression or PTSD, will result in severe difficulties interacting and actively engaging with other people socially, and functioning in their everyday life as they used to. They are an inevitable source of pain that requires intensive healing.

### ***Consequences for the Family***

Torture as an interrogative or investigative tool has consequences not only for the individual it is inflicted upon, but also the person's family. For instance, trauma can have the effect of creating "secondary trauma" on the nuclear family. This means that they too may experience trauma themselves as a result of over-exposure to the torture survivor's manifested symptoms.

Marriages in particular often suffer as a result of a spouse's struggle with depression or anxiety. For instance, issues with communication, isolating behaviors or substance abuse can severely impair the health and functioning ability of an intimate relationship.

Children of a traumatized parent can be affected in psychological and physiological ways that may result in developmental difficulties. Over-exposure to trauma interferes with neural connectivity crucial for proper brain growth. Children can end up with severe deficits in self-regulation, which impacts the way they are able to self-soothe, and adjust to stressful situations in a way that is positive and allows them to learn. Children may exhibit a range of reactions, including confusion, sadness, anger, isolating behaviors, or a lack of concentration. This may result in academic underperformance and create social problems with teachers and/or other children. In extreme examples of a traumatized parents' inability to take on the responsibilities and functions of the parent role, a child might become "*parentified*", meaning that they take on the role of the parent themselves, which can have debilitating effects for their emotional and psychological development.

### ***Consequences for the Society***

Torture affects local communities in a number of ways. When a detained person that has been tortured is released back into

his or her local community, they often feel ostracized, which can result in isolation for the whole family. Perhaps this is because torture instills a feeling of fear in the population as a result of how forced intelligence and information gathering occurs. The traumatized family often recounts feelings of suspicion, mistrust, fear, and shame with regards to their local community.

This lack of trust and ability to comfort, validate and support victims of trauma at the community level is socially damaging, as it debilitates society's ability to heal itself.

Societies that condone torture also experience a deleterious effect on public health due to higher rates of comorbid health issues, psychiatric illness, substance use, and suicide attempts. This leads to an overall decrease in quality of life and impairment in functioning for its citizens, which impacts their productivity and economic potential. It also represents a significant indirect financial cost on society's public resources used to care for such individuals. Lastly, studies have shown that children born to a generation of trauma survivors are at risk for mental illness themselves and are likely to be otherwise genetically impacted by heightened stress levels experienced by their parents.

From a mental health perspective, torture as an investigative method has far too many negative effects and consequences on the person it is inflicted upon, the individual's nuclear and extended family, as well as local community for it to be deemed beneficial to society at large. Torture causes irreversible psychological and physical damage; it can destroy whole families that may be affected for at least two generations; and it creates an environment of fear and mistrust between citizens, local communities, and local and national authorities.

## SUMMARY OF CONCLUSIONS

The following conclusions can be drawn from data collected during the 405 interviews regarding the prevalence and practice of torture and ill-treatment in Baghdad and the IKR.

- The rate of interviewees who alleged that they were tortured and ill-treated in Baghdad (70%) versus the IKR (59%) does not differ greatly.
- 255 interviewees (63% of the 405 interviewed) alleged that they were tortured or ill-treated at one or more stages of the criminal justice procedure.
- In regards to the treatment of women, in Baghdad 25% of the women interviewed alleged that they were either tortured and/or ill-treated while in detention facilities. In the IKR, 49% of women alleged that they had been either tortured and/or ill-treated while in detention facilities. Cumulatively, in both Baghdad and the IKR, 43.4% (23 women out of 53 interviewed) alleged that they were tortured and/or ill-treated.<sup>66</sup>
- A high number of interviewees in Baghdad who were accused of terrorism-related crimes alleged that they were tortured. Of the 67 interviewees who were accused of terrorism-related crimes, 55 alleged that they were tortured or ill-treated in detention facilities.
- A notable number of interviewees in Baghdad claimed that they were treated disrespectfully due to their sect (9% of 105). Of the 114 detainees and ex-detainees interviewed in the IKR, 3% felt they were treated disrespectfully for sectarian reasons.
- Of the detainees and ex-detainees who stated that they were tortured and/or ill-treated, a large majority believed that the reason for their abuse was the extraction of a forced confession. In Baghdad, 65% (83 of 128) of interviewees and in the IKR, 86% (106 of 123) of interviewees believed that the reason for their torture was in order to force them to confess to a crime. Across Iraq, 75% of the interviewees alleging torture or ill-treatment believed that the reason was to force them to confess to a crime.
- In both Baghdad and the IKR, the interviewees who alleged that they were tortured were asked about the injuries they sustained as a result of the torture. The body parts most frequently injured were the back, hand/fingers, chest (especially in Baghdad), and feet.
- In the interviews conducted in Baghdad, a higher number of detainees than in the IKR reported that restraint was used as a method of abuse. For example, among the 96 detainees who answered the question about methods of restraint, nine people stated that they were left in torture positions. These positions included being left in the “X position” or the “scorpion position” for various periods of time. Six interviewees stated they were hung, and 15 were blindfolded while restrained.

- In both Baghdad and the IKR, the use of electric shocks and electrical devices was relatively common. In Baghdad, of the 90 interviewees who stated they were tortured and/or ill-treated, 31 reported that they were beaten with electrical devices and/or shocked with electricity. In the IKR, of the 89 who were allegedly tortured/ill-treated, 41 said they were electrocuted and/or beaten with electrical devices.
- A high number of interviewees (82 in Baghdad and 91 in the IKR) stated that the food provided in detention facilities was of poor quality and inadequate quantities. Many complained that unhygienic or inadequate food used as a form of punishment for the detainees.
- When asked about the sleeping arrangements in detention facilities, 82 interviewees in Baghdad and 118 interviewees in the IKR described the sleeping arrangements as inadequate. Many stated that they were kept in dirty rooms, without mattresses and/or blankets. In 58 instances, interviewees stated that the detention facilities were so overcrowded that detainees had to sleep in shifts due to the lack of space for all individuals to sleep.
- The use of solitary confinement emerged as a relatively common phenomenon. In Baghdad, 52 interviewees and 85 in the IKR stated they were solitarily confined for different amounts of time. The use of solitary confinement was frequently coupled with a lack of food and water and extreme climatic conditions, including strong light and heat in the summer and cold air in the winter.
- Detainees and ex-detainees interviewed in both Baghdad and the IKR reported that access to health care in detention facilities was insufficient. In the IKR, 73% of interviewees in need of medication said they were either not provided it or what they were provided was inadequate. In Baghdad, 45%. Moreover, within detention facilities, detainees stated that access to doctors was limited; in Baghdad 75% of the people interviewed were never visited by a doctor during their detention period. In the IKR, 43% of interviews reported never seeing a doctor while in detention.
- A number of interviewees in Baghdad alleged that they were required to pay bribes to law enforcement officials. According to the interviewees, the main reasons for bribes are to facilitate and expedite individuals' cases within the criminal justice system. The use of bribery was less common in the IKR.
- With regard to the criminal justice system, the legal rights of persons arrested and detained both in Baghdad and the IKR do not conform to Iraqi law or international standards. This includes the processes of arrest and formal charge; the informed right to legal counsel; the right to be brought before an investigative judge within 24 hours; and length of pre-trial detention. Overall, 42 interviewees were taken without an arrest warrant; 247 had not been formally charged with a crime while being detained for periods of between one week to 26 months; 42 people were not brought before a judge during their detention period; 200 were held in pre-trial detention for a period between one month and two years.

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<sup>66</sup> As mentioned in above in "Limitation of the study", a significantly fewer number of women than men were interviewed both in Iraq and IKR.

## ACKNOWLEDGMENTS

*The exposure of torture, ill-treatment and other cruel, inhuman, or degrading treatment or punishment in this report constitutes a powerful and loud call for change. The Iraqi government and the KRG have both the authority and the responsibility to accomplish this change through implementing existing laws and regulations, and taking effective legislative, administrative, and judicial measures to further protect detainees' rights and prevent the use of torture and other cruel, inhuman, and degrading treatment or punishment.*

We wish to thank all those who contributed directly or indirectly in designing the survey, conducting the interviews, analyzing the data, and writing the report.

In particular, we wish to express our sincere gratitude to HAI's longstanding cooperating partners, notably: Democracy and Human Rights Development center (DHRD) and its counterpart NGO in Federal Iraq, who conducted the interviews at the base of this report and provided, throughout the last 2 years, legal assistance to victims of torture and ill-treatment; and WCHAN Organization for Victims of Human Rights Violations, whose staff contributed to the mental health section of this report and continues to provide high quality mental health services to torture survivors. Support of staff and partners has been indispensable, and our work would not have been possible without their unwavering commitment.

We also wish to acknowledge the considerable advice and support we received throughout the project, from numerous individuals and professionals, as well as local and international NGOs across Iraq and the Iraqi Kurdistan Region. In addition, HAI appreciates the cooperation demonstrated by the Government of Iraq and the Kurdistan Regional Government, including numerous government officials and ministries.

Last but not least, we wish to express gratitude to those individuals who shared the personal stories that form the cornerstone of this report. Their ability to share details about dehumanizing practices designed to break a sense of self, allowed us to shed light on a hidden and invisible world continuing to require urgent attention. It is our hope that this report does justice to these courageous men and women, gives voice to those muted by torture and ill treatment in the past, and constitutes a powerful and loud call to eradicate torture and ill-treatment globally.





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