

**UDENRIGSMINISTERIET**  
**MINISTRY OF FOREIGN AFFAIRS OF DENMARK**

BILAG

15

CHRISTIAN HARLANG

 Abonner  Send**FN'S GENERALFORSAMLING VEDTAGER DANSK RESOLUTION MOD TORTUR**

FN's Generalforsamlings 3. udvalg vedtog i går tirsdag den 18. november 2008 enstemmigt en omfattende resolution mod tortur, som Danmark har fremlagt. Resolutionen har 86 medforslagsstillere og skal senere i år bekræftes i plenarforsamlingen.

Igennem de sidste 10 år har Danmark stået i spidsen for forhandlingerne om resolutionen mod tortur i FN's Generalforsamling. Det er, trods vanskeligheder, lykkedes at fastholde de forbedringer, der er opnået de senere år og at styrke teksten på en række punkter.

Resolutionen understreger, at frihed for tortur og anden grusom, umenneskelig eller nedværdigende behandling eller straf er en ufravigelig rettighed, som skal beskyttes uden undtagelse. Den fremhæver, at enhver påstand om tortur skal efterforskes uvildigt og at enhver, som udfører, beordrer, tolererer eller ansporer til tortur skal holdes ansvarlig herfor og straffes.

Resolutionen tager stilling til en række grundlæggende forhold af betydning for at modvirke tortur, herunder at

- staterne bør være særligt opmærksomme på risikoen for at frihedsberøvede personer udsættes for tortur eller mishandling;
- ingen må udvises til et land, hvor der er vægtige grunde til at antage, at den pågældende vil blive udsat for tortur;
- ingen, som er dømt for tortur eller anden mishandling, må efterfølgende have med frihedsberøvede personer at gøre, og
- udsagn, der er opnået ved tortur må ikke lægges til grund ved retssager eller i andre processer.

Det vigtige arbejde for bekæmpelsen af tortur, som FN's Torturkomité, FN's Specialrapportør om tortur og de private organisationer (NGO'er) udfører, hilses velkommen i resolutionen. Betydningen af FN's Torturkonvention og dens valgfrie protokol samt nationale mekanismer til forebyggelse af tortur fremhæves. Resolutionen hilser det også velkommen, at FN-konventionen om rettigheder for personer med handicap er trådt i kraft og påpeger nødvendigheden af at integrere disse rettigheder i arbejdet med at forebygge og bekæmpe tortur.

Læs resolutionen i sin helhed under [DOWNLOAD](#) til højre på siden.

Udenrigsministeriet, den 19. november 2008

United Nations

A/RES/60/148



## General Assembly

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Agenda item 71 (a)

## Resolution adopted by the General Assembly

*[on the report of the Third Committee (A/60/509/Add.1)]***60/148. Torture and other cruel, inhuman or degrading treatment or punishment***The General Assembly,**Reaffirming* that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,*Recalling* that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or internal armed conflict or disturbance, and that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments,*Recalling also* that a number of international, regional and domestic courts, including the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, have recognized that the prohibition of torture is a peremptory norm of international law and have held that the prohibition of cruel, inhuman or degrading treatment or punishment is customary international law,*Recalling further* the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>1</sup>*Noting* that under the Geneva Conventions of 1949<sup>2</sup> torture and inhuman treatment are a grave breach and that under the statutes of the International Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994,<sup>1</sup> United Nations, *Treaty Series*, vol. 1465, No. 24841.<sup>2</sup> *Ibid.*, vol. 75, Nos. 970–973.

and the Rome Statute of the International Criminal Court<sup>3</sup> acts of torture constitute war crimes and can constitute crimes against humanity,

*Commending* the persistent efforts by non-governmental organizations, including the considerable network of centres for the rehabilitation of victims of torture, to combat torture and to alleviate the suffering of victims of torture,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment, including their gender-based manifestations, and also emphasizes the importance of taking fully into account the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture and the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment;

3. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions;

4. *Stresses* that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)<sup>4</sup> as a useful tool in efforts to combat torture;

5. *Stresses also* that all acts of torture must be made offences under domestic criminal law, and emphasizes that acts of torture are serious violations of international humanitarian law and in this regard constitute war crimes and can constitute crimes against humanity, and that the perpetrators of all acts of torture must be prosecuted and punished;

6. *Urges* States to ensure that any statement that is established to have been made as a 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;

7. *Stresses* that States must not punish personnel who are involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

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<sup>3</sup> *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June–17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.1.5), sect. A.

<sup>4</sup> Resolution 55/89, annex.

8. *Urges* States not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

9. *Stresses* that national legal systems must ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, urges States to take effective measures to this end, and in this regard encourages the development of rehabilitation centres;

10. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms can be effective measures for the prevention of torture and other cruel, inhuman or degrading treatment and punishment;

11. *Reminds* all States that prolonged incommunicado detention or detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person;

12. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment;

13. *Urges* all States that have not yet done so to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>1</sup> as a matter of priority;

14. *Invites* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 of the Convention concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20 of the Convention and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

15. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles when submitting reports to the Committee against Torture;

16. *Calls upon* States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>2</sup> which provides further measures

<sup>2</sup> Resolution 57/199, annex.

for use in the fight against and prevention of torture and other cruel, inhuman or degrading treatment or punishment;

17. *Welcomes* the work of the Committee against Torture and the report of the Committee, submitted in accordance with article 24 of the Convention;<sup>6</sup>

18. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee against Torture and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

19. *Notes with appreciation* the interim report of the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment,<sup>7</sup> and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

20. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;

21. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up his urgent appeals, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;

22. *Stresses* the need for the continued regular exchange of views among the Committee against Torture, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with a view to enhancing further their effectiveness and cooperation on issues relating to torture, inter alia, by improving their coordination;

23. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, and appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions;

24. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Fund and to include the

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<sup>6</sup> *Official Records of the General Assembly, Sixtieth Session, Supplement No. 44 (A/60/44).*

<sup>7</sup> See A/60/316.

Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

25. *Also requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in combating torture and assisting victims of torture commensurate with the strong support expressed by Member States for combating torture and assisting victims of torture, noting the upcoming entry into force of the Optional Protocol to the Convention;

26. *Further requests* the Secretary-General to submit to the Commission on Human Rights at its sixty-second session and to the General Assembly at its sixty-first session a report on the status of the Convention and a report on the operations of the Fund;

27. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

28. *Decides* to consider at its sixty-first session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture, the report of the Committee against Torture and the interim report of the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment.

*64th plenary meeting  
16 December 2005*

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COMMISSION ON HUMAN RIGHTS  
Sixty-first session  
Item 17 of the provisional agenda

**PROMOTION AND PROTECTION OF HUMAN RIGHTS**

**Protection of human rights and fundamental  
freedoms while countering terrorism**

**Note by the United Nations High Commissioner for Human Rights**

The High Commissioner for Human Rights has the honour to submit to the members of the Commission on Human Rights the report of the independent expert on the protection of human rights and fundamental freedoms while countering terrorism, Robert K. Goldman, appointed pursuant to Commission resolution 2004/87.

**REPORT OF THE INDEPENDENT EXPERT ON THE PROTECTION  
OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHILE  
COUNTERING TERRORISM, ROBERT K. GOLDMAN**

**Summary**

The Commission on Human Rights, in resolution 2004/87, decided to designate, from within existing resources, for a period of one year, an independent expert to assist the High Commissioner for Human Rights in the fulfilment of the mandate described in the resolution and, "taking fully into account the study requested in General Assembly resolution 58/187, as well as the discussions in the Assembly and the views of States thereon, to submit a report, through the High Commissioner, to the Commission at its sixty-first session on ways and means of strengthening the promotion and protection of human rights and fundamental freedoms while countering terrorism".

This report is submitted in accordance with resolution 2004/87. It builds and elaborates on the study of the High Commissioner (A/59/428) submitted to the fifty-ninth session of the General Assembly pursuant to Assembly resolution 58/187. The report identifies some key issues affecting the enjoyment of human rights in the struggle against terrorism that either have not been addressed or extensively developed by other mandate holders. The report then goes on to address how to strengthen the United Nations human rights mechanisms in protecting human rights and fundamental freedoms while countering terrorism. It acknowledges that significant steps have already been taken by the United Nations human rights system to address the protection and promotion of human rights in the struggle against terrorism. Nevertheless, the independent expert concludes that, given the gaps in coverage of the monitoring systems of the special procedures and treaty bodies and the pressing need to strengthen human rights protections while countering terrorism, the Commission should consider the creation of a special procedure with a multidimensional mandate to monitor States' counter-terrorism measures and their compatibility with international human rights law.



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that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any other country to which the person may subsequently be removed” (para. 12). The Committee against Torture (CAT) has stated the following concerning article 3 of the Torture Convention: “Whenever substantial grounds exist for believing that an individual would be in danger of being subjected to torture upon expulsion to another State, the State party is under an obligation not to return the person concerned to that State. The nature of the activities in which the person concerned engaged cannot be a material consideration when making a determination under article 3 of the Convention.”<sup>77</sup> Several regional human rights bodies<sup>78</sup> have expressed similar views concerning the prohibition of torture in the context of expulsions in their case law and/or reports.

#### **L. Transfer, including “rendition”, of terrorist suspects**

54. States unquestionably have a duty to take effective measures to confront terrorist threats and to seek closer cooperation with other States for that purpose. However, as stressed in Security Council resolution 1456 (2003), they must do this in conformity with their international legal obligations, including human rights law. Accordingly, serious concerns have been expressed about the transfer, including the so-called “rendition”, of foreigners by certain States to other countries without utilizing legally recognized extradition, expulsion or deportation procedures.

55. In most of the transfers reportedly carried out after 11 September, the persons concerned were terrorist suspects who, often being held extraterritorially, had not been charged criminally and instead were transferred to third States, apparently for the purposes of interrogation. Many of these receiving States are alleged to systematically or routinely practise torture, often as part of interrogations. In certain situations, persons reportedly have been transferred to unknown locations and have been detained incommunicado for prolonged or indefinite periods. These practices apparently take place without judicial oversight or any other legal safeguards. In this regard, the Human Rights Committee, in concluding observations on a particular State’s report, expressed “... its concern about cases of expulsion of foreigners suspected of terrorism without an opportunity for them to legally challenge such measures (CCPR/CO/75/YEM, para. 18)”. Transfers which ignore or do not take into account the risk to the physical integrity of the person in the receiving State and/or do not afford the person concerned any legal redress are incompatible with States’ obligations under human rights law and, thus, should not be undertaken.

#### **M. Diplomatic assurances**

56. Also troubling is the increased reliance on diplomatic assurances sought by the sending State from the receiving State that transferred terrorist suspects will not face torture or other ill-treatment following their arrival. Such transfers are only sometimes accompanied by a rudimentary monitoring mechanism, most often in the form of sporadic visits to the person from the sending State’s diplomatic representatives. Some States have argued that by securing such assurances they are complying with the principle of non-refoulement, but critics have taken issue with this assertion. Unlike assurances on the use of the death penalty or trial by a military court, which are readily verifiable, assurances against torture and other abuse require constant vigilance

by competent and independent personnel. Moreover, the mere fact that such assurances are sought is arguably a tacit admission by the sending State that the transferred person is indeed at risk of being tortured or ill-treated.

57. The Special Rapporteur on the question of torture, in his report to the General Assembly, mentioned "a number of instances where there were strong indications that diplomatic assurances were not respected" and questioned whether States' resort to assurances is not becoming a politically inspired substitute for the principle of non-refoulement (A/59/324, para. 31). His concern is buttressed by the fact that diplomatic assurances are not legally binding and thus have no sanctions for their violation. Even when post-return monitoring accompanies assurances, States that reportedly practise torture have generally restricted access to outside persons, particularly independent doctors and lawyers who are often best able to determine whether abuse has taken place. Moreover, such monitoring is further frustrated by the fact that persons subjected to torture are often reluctant to speak about the abuse out of fear of further torture as retribution for complaining.

58. The Human Rights Committee has expressed concern about the expulsion of asylum-seekers suspected of terrorism to their countries of origin on the basis of such assurances. In recent concluding observations, it stated: "when a State party expels a person to another State on the basis of assurances as to that person's treatment by the receiving State, it must institute credible mechanisms for ensuring compliance by the receiving State with these assurances from the moment of expulsion" (CCPR/C/SWE, para. 12).<sup>79</sup>

59. In his report (A/59/324), the Special Rapporteur on the question of torture suggested some factors to consider in determining whether a risk of torture or ill-treatment exists. The factors can generally be described as the prevailing political conditions in the receiving State<sup>80</sup> and the personal circumstances of the individual that render him/her particularly vulnerable to this risk in the receiving State.<sup>81</sup> These factors alone or, in combination, would determine whether the principle of non-refoulement precludes reliance on assurances. However, the Special Rapporteur has indicated that, as a baseline, in circumstances where a person would be returned to a place where torture is systematic, "the principle of non-refoulement must be strictly observed and diplomatic assurances should not be resorted to" (ibid., para. 37).

60. The Special Rapporteur on the question of torture has also elaborated minimum safeguards that should be included in any assurance. These include provisions granting prompt access to a lawyer; recording of interrogations and of the identities of those persons present; allowing independent and timely medical examinations; prohibiting incommunicado detention or detention in undisclosed locations; and monitoring by independent persons or groups conducting prompt, regular visits that include private interviews. Those conducting such visits should be qualified in identifying possible signs of torture or ill-treatment (ibid., paras. 41, 42).

61. Given the absolute obligation of States not to expose any person to the danger of torture by way of extradition, expulsion, deportation, or other transfer, diplomatic assurances should not be used to circumvent that non-refoulement obligation.



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COMMISSION ON HUMAN RIGHTS  
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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE  
QUESTIONS OF TORTURE AND DETENTION**

**Torture and other cruel, inhuman or degrading treatment**

**Report of the Special Rapporteur on the question  
of torture, Manfred Nowak**

## Summary

The Special Rapporteur on torture, Manfred Nowak, submits his first report to the Commission. Section I summarizes the activities of the Special Rapporteur in 2005, with a particular focus on the period since the submission of his interim report to the General Assembly. In section II, the Special Rapporteur discusses the methods of work related to country visits, particularly the terms of reference for fact-finding missions. He examines the implications of these conditions, specifically with respect to visiting places of detention. According to the Special Rapporteur, the terms of reference are fundamental, common-sense considerations that are essential to ensure an objective, impartial and independent assessment of torture and ill-treatment during country visits. Section III contains a report on recent activities and developments related to diplomatic assurances. The Special Rapporteur draws attention to the importance of maintaining the focus and remaining vigilant on practices such as the use of diplomatic assurances, which attempt to erode the absolute prohibition on torture in the context of counter-terrorism measures. He reiterates that diplomatic assurances are not legally binding and undermine existing obligations of States to prohibit torture, are ineffective and unreliable in ensuring the protection of returned persons, and therefore shall not be resorted to by States. Section IV examines the distinction between torture and cruel, inhuman or degrading treatment or punishment. He concludes that the distinction relates primarily to the question of personal liberty. Outside a situation where one person is under the total control of another - i.e. where a person is rendered powerless - the proportionality principle is a precondition for assessing the scope of application of the prohibition of cruel, inhuman or degrading treatment or punishment. In all other cases, and in particular in situations of interrogation, no proportionality test may be applied and the prohibition of torture and cruel, inhuman or degrading treatment or punishment is equally as absolute as the prohibition of torture.

The summary of communications sent by the Special Rapporteur from 1 December 2004 to 15 December 2005 and the replies received thereto from Governments by 31 December 2005, as well as a number of country-specific observations, are found in addendum 1 to the report. The summary of the information provided by Governments and non-governmental organizations on the implementation of the Special Rapporteur's recommendations following country visits is found in addendum 2. Addendums 3 to 6 are the reports on the country visits to Georgia, Mongolia, Nepal and China, respectively. Document E/CN.4/2006/120 contains the joint report prepared with the Special Rapporteurs on the right of everyone to the highest attainable standard of physical and mental health, the independence of judges and lawyers, and freedom of religion or belief, and the Chairperson of the Working Group on Arbitrary Detention concerning the human rights situation of detainees held at the United States of America Naval Base at Guantánamo Bay, Cuba.

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## **Introduction**

1. The Special Rapporteur on the question of torture, Manfred Nowak, who was appointed on 1 December 2004, hereby submits his first report to the Commission on Human Rights, in accordance with resolution 2005/39.
2. Section I summarizes the activities of the Special Rapporteur in 2005, with a particular focus on the period since the submission of his interim report to the General Assembly (A/60/316). In section II, the Special Rapporteur discusses the methods of work related to country visits, and section III contains a report on recent developments related to diplomatic assurances. Section IV examines the distinction between torture and cruel, inhuman or degrading treatment or punishment.
3. The summary of communications sent by the Special Rapporteur from 1 December 2004 to 15 December 2005, and the replies received thereto from Governments by 31 December 2005, as well as a number of country-specific observations, are found in addendum 1 to the report. Addendum 2 contains a summary of the information provided by Governments and non-governmental organizations on implementation of the Special Rapporteur's recommendations following country visits. Addendums 3 to 6 are the reports on the country visits to Georgia, Mongolia, Nepal and China, respectively. Document E/CN.4/2006/120 contains the joint report prepared with the Special Rapporteurs on the right of everyone to the highest attainable standard of physical and mental health, the independence of judges and lawyers, and freedom of religion or belief, and the Chairperson of the Working Group on Arbitrary Detention concerning the human rights situation of detainees held at the United States of America Naval Base at Guantánamo Bay, Cuba.

## **I. ACTIVITIES OF THE SPECIAL RAPPORTEUR**

4. The Special Rapporteur draws the attention of the Commission to his first report to the General Assembly (*ibid.*, paras. 12-17), in which he described his activities in 2005 since the submission of the report of his predecessor to the sixty-first session of the Commission on Human Rights.
5. The Special Rapporteur would like to inform the Commission about the activities he has undertaken since his appointment on 1 December 2004. Regarding country visits, the Special Rapporteur recalls that in the first half of 2005, he undertook visits to Georgia, including the territories of Abkhazia and South Ossetia, in February and to Mongolia in June. In Georgia, he concluded that torture and ill-treatment by law enforcement officials still exists, and that conditions of detention are, in general, poor. At the same time, he welcomed a series of positive developments since the Rose Revolution of November 2003 aimed at eradicating torture, and expressed his appreciation to the Government for having complied with many of his recommendations, including ratifying the Optional Protocol to the Convention against Torture in June 2005. In Mongolia, the Special Rapporteur concluded that torture persists, particularly in police stations and pretrial detention facilities. He expressed concern at the secrecy surrounding the application of the death penalty and the cruel treatment of prisoners on death row. Similarly, the conditions of prisoners serving 30-year terms in isolation amounted to inhuman treatment. At the same time, he was encouraged by the activities of the National Human Rights Commission, in particular its critical public inquiry into torture allegations.

From 10 to 16 September 2005 the Special Rapporteur visited Nepal, where he found the practice of torture to be systematic and practised by the police, the armed police, and the Royal Nepalese Army. These conclusions are based, inter alia, on the large number of serious allegations received, on convincing medical evidence and on surprisingly frank admissions by high police and military commanders that torture is indeed practised systematically against suspected Maoists. At the same time, he also found shocking cases of particularly cruel treatment and punishment committed by Maoist forces. From 21 November to 2 December, the Special Rapporteur visited China where he concluded that the practice of torture, though on the decline, still remains widespread in the country. He was particularly concerned about the continuing practice of forced re-education of persons with dissident or non-conformist opinions, aimed at changing their personality and breaking their will, both in special re-education through labour camps, regular prisons, and even in pretrial detention facilities. Such practices, in the opinion of the Special Rapporteur, constitute a systematic form of inhuman and degrading treatment and are incompatible with a modern society based on a culture of human rights, democracy and the rule of law. The findings, conclusions and recommendations of these visits can be found in the addenda to this report.

6. Concerning the joint request made in June 2004 for an invitation to visit the United States Naval Base at Guantánamo Bay, on 27 October 2005, the Government finally responded with an invitation to only three of the five experts of the Commission on Human Rights entrusted with a joint investigation, namely the Special Rapporteur on the question of torture, the Special Rapporteur on freedom of religion or belief, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. Moreover, the Government limited the visit to one day and explicitly excluded private interviews or visits with detainees. On 31 October, the experts agreed to the short duration of the visit and the limitation on the number of mandate-holders invited, and decided to visit the base on 6 December 2005. However, they could not accept the exclusion of private interviews with detainees, which, in the view of the experts, would not only contravene the terms of reference for fact-finding missions by special procedures, but would also undermine the purpose of making an objective and fair assessment of the situation of the detainees. On 18 November 2005, the experts reported that the Government did not accept this precondition for a visit, and therefore the mission envisaged for 6 December, unfortunately had to be cancelled. As indicated above, a joint report on the applicability of international human rights law to detention in Guantánamo, as well as the situation of human rights of the detainees, based on factual information gathered by various means, including from interviews with former detainees, is before the Commission.

7. The Special Rapporteur reports that in view of the previous invitations extended by the Governments of Paraguay and Bolivia, in addition to the positive indications received from the Governments of the Russian Federation (an invitation was first requested in 2000), Côte d'Ivoire (2005) and Togo (2005), he hopes to realize the visits to those countries in the near future. He regrets that despite long-standing requests, invitations have not been received from the Governments of Algeria (1997), Egypt (1996), India (1993), Indonesia (1993), Israel (2002), Tunisia (1998) and Turkmenistan (2003). In May 2005, the Special Rapporteur requested invitations from the Governments of Belarus, Equatorial Guinea, Eritrea, Ethiopia, the Islamic Republic of Iran, Nigeria, Sri Lanka, the Syrian Arab Republic and Zimbabwe. In December 2005, the Special Rapporteur requested invitations from Afghanistan, Iraq, Jordan, the Libyan Arab Jamahiriya, Saudi Arabia and Yemen.



8. During his first year in office, the Special Rapporteur issued press statements concerning: the situation of Guantánamo Bay detainees following the fourth anniversary of the establishment of the detention centres (4 February 2005); the situation following the declaration of a state of emergency in Nepal (8 February 2005); allegations of human rights violations by the authorities of Uzbekistan in connection with the violent events in Andijan (23 June 2005); the lack of an invitation by the Government of the United States of America to visit Guantánamo Bay on the first anniversary of the request by the independent experts of the Commission on Human Rights (23 June 2005); the campaign by the Government of Zimbabwe of forced evictions of informal traders and persons living in informal settlements (24 June 2005); the reported denial of medical treatment to an imprisoned journalist in the Islamic Republic of Iran (18 July 2005); diplomatic assurances not being an adequate safeguard for deportees (23 August 2005); questions about the trial of terrorism suspects in Andijan, Uzbekistan, jointly with the Special Rapporteurs on extrajudicial, summary or arbitrary executions, the independence of judges and lawyers, and the promotion and protection of human rights and fundamental freedoms while countering terrorism (26 October 2005); the detention of the former President of Chad, Hissein Habré, and calling upon the Government of Senegal to extradite him expeditiously to Belgium (18 November 2005); an appeal to the German authorities to initiate a criminal investigation and prosecute for crimes of torture Mr. Zokirjon Almatov, Minister of Internal Affairs of Uzbekistan, who was in Germany receiving medical treatment (16 December 2005).

9. On 13 October 2005, the Special Rapporteur participated in an inter-agency meeting on the follow-up to the Andijan trials organized by the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights to brief other international organizations on the ongoing trials and to brainstorm on a common response and follow-up.

10. On 24 October 2005, he was invited to London to meet with the Home Secretary of the United Kingdom, concerning the issue of diplomatic assurances (see paragraph 27 below).

11. On 26 October 2005, the Special Rapporteur presented his first report to the General Assembly. In his statement, he addressed continuing occurrences of the practice of corporal punishment, such as amputation, stoning, flogging and beating, surveyed the jurisprudence of international and regional human rights mechanisms, and concluded that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Maintaining the focus on the absolute prohibition of torture in the context of counter-terrorism measures, the Special Rapporteur discussed the principle of non-refoulement and the use of diplomatic assurances in light of recent decisions of courts and international human rights mechanisms. In the opinion of the Special Rapporteur, diplomatic assurances are unreliable and ineffective in the protection against torture and ill-treatment, and shall not be resorted to by States.

12. On 5 November 2005, on the occasion of the twentieth anniversary of the International Rehabilitation Council for Torture Victims (IRCT), the Special Rapporteur participated in a panel discussion organized by IRCT in Copenhagen, entitled, "Torture in the Twenty-First Century", where he addressed the threats posed to the prohibition of torture by practices such as diplomatic assurances and secret places of detention.

13. On 7 November 2005, the Special Rapporteur attended a meeting of the Terrorist Prevention Branch, Division of Treaty Affairs, United Nations Office on Drugs and Crime, Vienna. He presented an overview of the mandate, and the participants discussed issues of common interest and explored possible areas for future cooperation.

14. On 10 November 2005, the Special Rapporteur was received by the European Committee for the Prevention of Torture (CPT) in Strasbourg, France. Views were exchanged in relation to the prohibition of torture in the context of counter-terrorism measures, particularly with respect to diplomatic assurances and secret places of detention. Promoting ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and exploring mutual cooperation and coordination, such as in relation to preparation and follow-up to country visits, was also discussed. On the same day, the Special Rapporteur met with the European Commissioner for Human Rights. The Special Rapporteur also met with the Secretariat of the Parliamentary Assembly's Committee of Human Rights and Legal Affairs, Council of Europe. He was informed that in reaction to his request for a Council of Europe investigation into alleged secret places of detention in Europe of the United States' Central Intelligence Agency, the Committee called upon the Council's Secretary-General to investigate these allegations. The Special Rapporteur welcomes the appointment of an investigator and the launch of an investigation on 21 November 2005; he also welcomes the fact that the Secretary-General of the Council of Europe made use of his powers under article 52 of the European Convention on Human Rights (ECHR) to request all Council of Europe member States to report on the question of alleged secret CIA places of detention in Europe.

15. On 18 November 2005, in London, the Special Rapporteur, together with the Special Rapporteur on the right to health, conducted interviews with a number of former detainees in order to gather information for the joint report of the experts of the Commission on Human Rights concerning the human rights situation of detainees held at the United States Naval Base at Guantánamo Bay.

16. On 7 December 2005, the Special Rapporteur participated in a discussion on the development of guidelines for diplomatic assurances in the Group of Specialists on Human Rights and the Fight against Terrorism, Steering Committee for Human Rights, Council of Europe (see paragraph 30 below).

17. On 9 December 2005, on the eve of Human Rights Day, the Special Rapporteur, together with 32 human rights experts of the United Nations, issued a statement on the absolute prohibition against torture. The experts expressed:

“... alarm at attempts by many States to circumvent provisions of international human rights law by giving new names to old practices. Whereas international instruments stress that human rights are at the foundation of any democratic society, more and more frequently they are portrayed as an obstacle to government efforts to guarantee security. This trend is illustrated by debates on the absolute prohibition of torture: a ban that recently had seemed an undisputed cornerstone of human rights law, anchored in numerous international legal instruments, but also accepted as a principle of *jus cogens*. For this reason we would like to reaffirm that the very rationale of human rights is that they provide minimum standards that have to be respected by States at all times, in particular when new challenges arise.”

18. On 14 December 2005, the Special Rapporteur was invited by the German Institute of Human Rights, Berlin, to a meeting to discuss the Optional Protocol to the Convention against Torture, including aspects of its implementation. In attendance were representatives of the Government of Germany and the Länder.

19. On 22 December 2005, the Special Rapporteur is expected to address the OSCE Permanent Council in Vienna on cooperation among international and regional human rights mechanisms in the prevention of torture.

## II. COUNTRY VISIT METHODOLOGY

20. Based on his recent experiences in carrying out country visits, the Special Rapporteur considers it important to draw the attention of the Commission to his methods of work in this regard. Successive resolutions of the Commission have approved and recognized the long-standing methods of work of the Special Rapporteur (e.g. 2001/62, para. 30; 2004/41, para. 29; 2005/39, para. 26). The Special Rapporteur recalls that a country visit can only be undertaken upon the invitation of the Government, which by itself is a statement of a country's willingness to open up to independent and objective scrutiny and a testament to its cooperation with the international community in the area of human rights. Those States that have answered requests and have extended invitations should therefore be commended.

21. However, an invitation alone is not sufficient, and acceptance by the Special Rapporteur is contingent upon an express agreement by the Government of its commitment and cooperation by assuring full compliance with his terms of reference. The aim of carrying out country visits is to see first-hand what the true practice and situation of torture and ill-treatment is: to identify gaps as well as acknowledge positive measures, to recommend ways to improve the situation, and to initiate a process of sustained constructive cooperation with the Government together with the international community and civil society in order to eradicate torture and ill-treatment. Such visits necessarily entail meetings with authorities most directly concerned with the issues, alleged victims or their families, as well as NGOs and relevant international actors.

22. To ensure that any assessment of the situation of torture and ill-treatment will be honest, credible and objective, a number of basic preconditions must be guaranteed by the Government to ensure that the Special Rapporteur can carry out his work effectively. The Special Rapporteur recalls that these conditions, or terms of reference for fact-finding missions, were adopted at the fourth meeting of independent experts of the Commission on Human Rights in May 1997 (E/CN.4/1998/45, appendix V). In particular, they include freedom of movement within the country; access to all prisons, detention centres and places of interrogation; confidential and unsupervised interviews; assurance by the Government that no persons who have been in contact with the Special Rapporteur will be subject to reprisals; and assurances that the same guarantees and facilities extended to the Special Rapporteur will be extended to his United Nations staff. These terms of reference are integral to his methods of work. The Special Rapporteur notes that similar standards for conducting visits to detention facilities have been recognized in international instruments, such as in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, article 8, and the Optional Protocol to the Convention against Torture, articles 14 and 15.

23. For the Special Rapporteur on the question of torture, it is axiomatic that freedom of inquiry in places of detention implies: unimpeded access, with or without prior notice, to any place where persons may be deprived of their liberty (e.g. police lock-up, pretrial, prison, juvenile, administrative, psychiatric or other facilities, as well as detention facilities within military installations); not being subject to arbitrary time limits for carrying out his work (e.g. visiting hours, working hours of daytime prison staff, etc.); free movement within the facility and access to any room in order to gather information, including by use of electronic means, such as photography; having access to any detainee or staff, and the possibility of conducting confidential and private interviews, unsupervised by government officials, in places either chosen by the Special Rapporteur or in cooperation with the detainee; being assisted by independent medical specialists who are qualified to document and assess injuries, in accordance with the Istanbul Protocol, as well as being assisted by independent interpreters; and being provided with copies of relevant information and documentation as requested.

24. The Special Rapporteur observes that in recent years much concern has been raised by Governments with respect to the above-mentioned terms of reference, particularly with regard to unannounced visits to places of detention. While in some cases he may indicate to the authorities in advance which facilities he intends to visit, access to all places implies that he will also conduct visits with little or no prior notice. Unannounced visits aim to ensure, to the greatest extent possible, that the Special Rapporteur can formulate a distortion-free picture of the conditions in a facility. Were he to announce in advance, in every instance, which facilities he wished to see and whom he wished to meet, there might be a risk that existing circumstances could be concealed or changed, or persons might be moved, threatened or prevented from meeting with him. This is an unfortunate reality that the Special Rapporteur faces. In fact, such incidents have even occurred where he has been delayed in entering a facility by as little as 30 minutes.

25. On occasion, in order to deny the Special Rapporteur the unimpeded access described above, it has been argued that national legislation restricts access to facilities except for a select number of enumerated individuals. However, it must be pointed out that an official visit of the United Nations Special Rapporteur, undertaken at the express invitation of a Government, is clearly an exceptional event. Therefore, one would expect that the Government would demonstrate its good faith and cooperation by facilitating the work of the Special Rapporteur to the fullest extent possible. In practical terms, this has been achieved by providing the Special Rapporteur with letters of authorization signed by the relevant ministries, as was done recently in Georgia, Mongolia and Nepal. In China, such letters of authorization could not be issued, which meant that officials of the Ministry for Foreign Affairs accompanied the Special Rapporteur throughout his mission in order to assure his unimpeded access to all places of detention.

26. In the view of the Special Rapporteur, these terms of reference are fundamental, necessary and common sense considerations. Moreover, by their nature, "common sense" methods for fact-finding cannot be subject to negotiation or selective approval by States. This was one of the reasons for the cancellation of the visit to Guantánamo Bay. Any suggestion to the contrary can only be considered as an attempt to compromise later findings. Likewise, subsequent violations of these conditions would seriously call into question the intentions behind inviting the Special Rapporteur.

27. The Special Rapporteur reiterates that the conclusion of a visit marks the beginning of a long-term process of cooperation with the Government with the common aim of eradicating torture and ill-treatment, and he reiterates his commitment to support government efforts to this end.

### III. RECENT DEVELOPMENTS RELATED TO DIPLOMATIC ASSURANCES

28. In his first report to the Commission on Human Rights, the Special Rapporteur draws attention to the importance of maintaining the focus on and remaining vigilant against continuing practices that erode the absolute prohibition of torture in the context of counter-terrorism measures. In particular, he refers to his interim report to the General Assembly, in which he examined the use by States of diplomatic assurances (or otherwise referred to as promises, agreements, guarantees, contacts, memorandums of understanding, etc.) to transfer or propose to return alleged terrorist suspects to countries where they may be at risk of torture or ill-treatment. In this section, the Special Rapporteur wishes to highlight some recent activities and developments in this area.

29. During the year, the Special Rapporteur held direct discussions with Governments on the issue. On 12 May 2005, he was invited to informal consultations with officials of the Swedish Ministry for Foreign Affairs in Stockholm, concerning diplomatic assurances, particularly in relation to the *Agiza* case before the United Nations Committee against Torture. On 24 October 2005, he was invited to meet with the Home Secretary of the United Kingdom of Great Britain and Northern Ireland in response to concerns raised in relation to memorandums of understanding concluded by the Government with Jordan and the Libyan Arab Jamahiriya in the aftermath of the bombings in London on 7 July. The Special Rapporteur and the Government exchanged views and agreed to continue to maintain a dialogue on the issue. On the same day, he met informally with several members of the Joint Committee on Human Rights of the United Kingdom Parliament to discuss the practice of diplomatic assurances, the use of evidence obtained under torture, and other issues related to his mandate.

30. On 7 December 2005, under the auspices of the Council of Europe, the Special Rapporteur participated in a discussion on the development of guidelines for diplomatic assurances with the Group of Specialists on Human Rights and the Fight against Terrorism of the Steering Committee for Human Rights.

31. In his presentation the Special Rapporteur outlined his main concerns on the issue:

(a) The principle of non-refoulement (CAT, art. 3; ECHR, art. 3; International Covenant on Civil and Political Rights (ICCPR), art. 7) is an absolute obligation deriving from the absolute and non-derogable nature of the prohibition of torture;

(b) Diplomatic assurances are sought from countries with a proven record of systematic torture, i.e. the very fact that such diplomatic assurances are sought is an acknowledgement that the requested State, in the opinion of the requesting State, is practising torture. In most cases, those individuals in relation to whom diplomatic assurances are being sought belong to a high-risk group ("Islamic fundamentalists");

(c) It is often the case that the requesting and the requested States are parties to CAT, ICCPR and other treaties absolutely prohibiting torture. Rather than using all their diplomatic and legal powers as States parties to hold other States parties accountable for their violations, requesting States, by means of diplomatic assurances, seek only an exception from the practice of torture for a few individuals, which leads to double standards vis-à-vis other detainees in those countries;

(d) Diplomatic assurances are not legally binding. It is therefore unclear why States that violate binding obligations under treaty and customary international law should comply with non-binding assurances. Another important question in this regard is whether the authority providing such diplomatic assurances has the power to enforce them vis-à-vis its own security forces;

(e) Post-return monitoring mechanisms are no guarantee against torture - even the best monitoring mechanisms (e.g. ICRC and CPT) are not "watertight" safeguards against torture;

(f) The individual concerned has no recourse if assurances are violated;

(g) In most cases, diplomatic assurances do not contain any sanctions in case they are violated, i.e. there is no accountability of the requested or requesting State, and therefore the perpetrators of torture are not brought to justice;

(h) Both States have a common interest in denying that returned persons were subjected to torture. Therefore, where States have identified independent organizations to undertake monitoring functions under the agreement, these interests may translate into undue political pressure upon these monitoring bodies, particularly where one is funded by the sending and/or receiving State.

32. In conclusion, the Special Rapporteur stated that diplomatic assurances with regard to torture are nothing but attempts to circumvent the absolute prohibition of torture and refoulement, and that rather than elaborating a legal instrument on minimum standards for the use of diplomatic assurances, the Council of Europe should call on its member States to refrain from seeking and adopting such assurances with States with a proven record of torture.

33. On the occasion of Human Rights Day, 10 December 2005, the Special Rapporteur expressed his appreciation to the High Commissioner for Human Rights for designating as this year's theme "On terrorists and torturers", and for her efforts on drawing international attention to the absolute prohibition of torture. He fully supports the statement of the High Commissioner, in which she expressed her concerns about the erosion of the prohibition of torture in the context of counter-terrorism, particularly the trend of seeking diplomatic assurances and the use of secret places of detention. The Special Rapporteur also expresses his appreciation for the statement of the Secretary-General on the occasion of Human Rights Day, in which he called upon the international community to speak out forcefully against torture in all its forms and stated, "torture can never be an instrument to fight terror, for torture is an instrument of terror".

#### **IV. THE DISTINCTION BETWEEN TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

34. The Special Rapporteur observes that an increasing number of Governments, in the aftermath of 11 September 2001 and other terrorist attacks, have adopted a legal position which, while acknowledging the absolute nature of the prohibition on torture, brings the absolute nature of the prohibition of cruel, inhuman or degrading treatment or punishment (CIDT) into question. In particular, it is argued that certain harsh interrogation methods falling short of torture might be justified for the purpose of extracting information aimed at preventing future terrorist acts that might kill many innocent people.

##### **Definitions**

35. Torture is defined in CAT, article 1, as acts which consist of the intentional infliction of severe pain or suffering (physical or mental), involving a public official (directly or at the instigation or consent or with the acquiescence of a public official, or another person acting in an official capacity), and for a specific purpose (i.e. extracting a confession, obtaining information, punishment, intimidation, discrimination). Acts which fall short of this definition, particularly acts without the elements of intent or acts not carried out for the specific purposes outlined, may comprise CIDT under article 16 of the Convention. Acts aimed at humiliating the victim constitute degrading treatment or punishment even where severe pain has not been inflicted.

36. The prohibitions against torture and CIDT are non-derogable under both ICCPR (article 7 concerning torture and CIDT and article 4 (2) on derogation during states of emergency), and CAT does not permit derogation from its provisions.

37. Certain obligations under CAT apply to torture only (above all, the obligation to criminalize acts of torture in and to apply the principle of universal jurisdiction in this regard), whereas other obligations aimed at prevention, in particular by means of education and training, by systematically reviewing interrogation rules and practices, by ensuring a prompt and impartial ex officio investigation, and by ensuring an effective complaints mechanism, as laid down in articles 10 to 13, must be equally applied to other forms of ill-treatment as well (i.e. art. 16 (1)).

##### **Disproportionate exercise of police powers**

38. Inherent in the concept of CIDT is the disproportionate exercise of police powers. The beating of a detainee with a truncheon for the purpose of extracting a confession must be considered torture if it inflicts severe pain or suffering; the beating of a detainee with a truncheon walking to and from a cell might amount to CIDT, but the beating of demonstrators in the street with the same truncheon for the purpose of dispersing an illegal demonstration or prison riot, for example, might be justified as lawful use of force by law enforcement officials.<sup>1</sup> In other words, since the enforcement of the law against suspected criminals, rioters or terrorists may legitimately require the use of force, and even of lethal weapons, by the police and other security forces, only if such use of force is disproportionate in relation to the purpose to be achieved and results in pain or suffering meeting a certain threshold, will it amount to cruel or inhuman treatment or punishment. Whether the use of force is to be qualified as lawful, in terms of article 16 of CAT or article 7 of ICCPR, or excessive depends on the proportionality of

the force applied in a particular situation.<sup>2</sup> Disproportionate or excessive exercise of police powers amounts to CIDT and is always prohibited. But the principle of proportionality, which assesses the lawful use of force to fall outside the scope of CIDT, only applies in situations in which the person concerned is still in a position to use force in turn against a law enforcement official or a third person. As soon as that person ceases to be in a position to resist the use of police force, i.e. is under the control of a law enforcement official and becomes powerless, the principle of proportionality ceases to apply.

#### **Powerlessness of the victim**

39. It is the powerlessness of the victim in a given situation that makes him or her particularly vulnerable to any type of physical or mental pressure. Torture, as the most serious violation of the human right to personal integrity and dignity, presupposes a situation where the victim is powerless i.e. is under the total control of another person. This is usually the case with deprivation of personal liberty.<sup>3</sup> Indeed, a thorough analysis of the *travaux préparatoires* of articles 1 and 16 of CAT as well as a systematic interpretation of both provisions in light of the practice of the Committee against Torture leads one to conclude that the decisive criteria for distinguishing torture from CIDT may best be understood to be the purpose of the conduct and the powerlessness of the victim, rather than the intensity of the pain or suffering inflicted, as argued by the European Court of Human Rights and many scholars.

40. Similarly, notwithstanding the principle of proportionality of the use of force as a determinant of CIDT, the overriding factor at the core of the prohibition of CIDT is the concept of powerlessness of the victim. In other words, as long as a person is able to resist the use by law enforcement officials of the degree of force legitimately required by the exigencies of the situation, the use of force falls outside the scope of the prohibition of CIDT. But from the moment the person concerned is under the *de facto* control of the police officer (e.g. *hors de combat*, otherwise unable to resist or flee a premises, is arrested and handcuffed, detained in a police van or cell, etc.), the proportionality test ceases to be applicable and the use of physical or mental coercion is no longer permitted. If such coercion results in severe pain or suffering inflicted to achieve a certain purpose, it must even be considered as torture. If interrogation methods do not reach the level of severe pain or suffering but are intended to humiliate the detainee, they are still to be considered as degrading treatment or punishment in violation of article 16 of CAT and/or article 7 of ICCPR. In addition, article 10 of ICCPR establishes a particular right to be treated in a humane and dignified manner which only applies to persons deprived of their personal liberty.

#### **Conclusion**

41. The distinction between torture and CIDT is an important one and relates primarily to the question of personal liberty. Outside a situation where one person is under the *de facto* control of another, the prohibition of CIDT is subject to the proportionality principle, which is a precondition for assessing its scope of application. However, if a person is detained or otherwise under the *de facto* control of another person, i.e. powerless, the proportionality test is no longer



applicable and the prohibition of torture and CIDT is absolute. This absolute prohibition of the use of any form of physical force or mental coercion applies, first of all, to situations of interrogation by any public official, whether working for the police forces, the military or the intelligence services.

### Notes

<sup>1</sup> Some authors, including Herman Burgers, who chaired the working group drafting CAT in the 1980s, have argued that victims of the prohibition of torture and CIDT in the sense of articles 1 and 16 “must be understood as consisting of persons who are deprived of their liberty or who are otherwise under the factual power or control of the person responsible for the treatment or punishment”: J.H. Burgers and H. Danelius, *The United Nations Convention against Torture. A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1988), p. 149. The European Court of Human Rights, the Committee against Torture and the Inter-American Commission on Human Rights have not followed this approach. There are cases in which the excessive use of police force outside detention, by applying the proportionality test has been found to constitute CIDT: e.g. the cases of *R.L. and M.-J.D. v. France* (application No. 44568/98) concerning ill-treatment during police intervention in a dispute at a restaurant which resulted in a violation of article 3 of ECHR; see also the *Ozemajl et al.* case (CAT/C/29/D/161/2000), where the Committee against Torture found the demolition by a mob of a Roma settlement with the knowledge of the local police and without the police preventing its occurrence to be a violation of article 16 of CAT, and the *Corumbiara* case, Inter-American Commission on Human Rights No. 11556 of 11 March 2004, Report No. 32/04.

<sup>2</sup> The principle of proportionality requires first of all the legality of the use of force under domestic law, which is usually regulated in police codes. Secondly, the use of force must aim at a lawful purpose, such as effecting the lawful arrest of a person suspected of having committed an offence, preventing the escape of a person lawfully detained, defending a person from unlawful violence, self-defence, or an action lawfully taken for the purpose of dispersing a demonstration or quelling a riot or insurrection. Most of these purposes can be found explicitly in article 2 (2) of ECHR relating to the non-absolute nature of the right to life, but no similar exceptions have been adopted in relation to the right to personal integrity and dignity in article 3 of ECHR. This was perhaps a mistake. It would have been better to define the right to personal integrity and dignity in a positive manner, to provide an absolute prohibition of any form of torture (similar to the absolute prohibition of slavery and servitude in article 4 (1) of ECHR and article 8 (1) of ICCPR as opposed to the relative prohibition of forced labour) and to establish a limitation clause for the use of lawful force by law enforcement officers. Thirdly, the type of the weapons used and the intensity of the force applied must not be excessive but necessary in the particular circumstances of the case in order to achieve any of the lawful purposes outlined above. This means that the law enforcement officers must strike a fair balance between the purpose of the measure and the interference with the right to personal integrity of the persons affected. If a thief, for example, has been observed stealing a toothbrush in a supermarket, the use of firearms for the purpose of effecting his or her arrest must be considered as

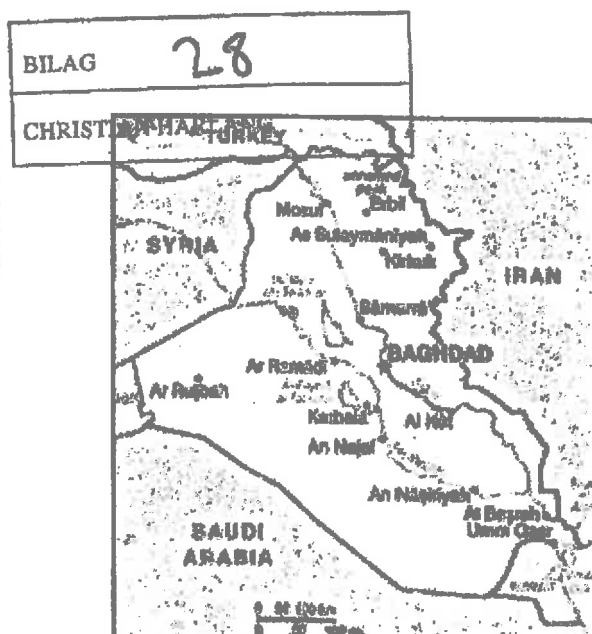
disproportionate. But for the purpose of arresting a person suspected of having committed murder or a terrorist attack, the police may, of course, use firearms if other less intrusive methods prove ineffective. Nevertheless, the use of firearms causes serious physical injuries and severe pain and suffering. While it would definitely constitute an interference with the human right to physical integrity, as a proportional measure it would not constitute CIDT. If the police use non-excessive force for a lawful purpose, then even the deliberate infliction of severe pain or suffering simply does not reach the threshold of CIDT.

<sup>3</sup> See, e.g., Burgers and Danelius, *op. cit.*, p. 120; C. Ingelse, *The UN Committee Against Torture: an assessment*, London, 2001, p. 211; article 7 (2) (e) of the Rome Statute of the International Criminal Court.

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## Middle East :: Iraq

page last updated on April 18, 2012



## Introduction ::Iraq

Background:

Formerly part of the Ottoman Empire, Iraq was occupied by Britain during the course of World War I; in 1920, it was declared a League of Nations mandate under UK administration. In stages over the next dozen years, Iraq attained its independence as a kingdom in 1932. A "republic" was proclaimed in 1958, but in actuality a series of strongmen ruled the country until 2003. The last was SADDAM Husayn. Territorial disputes with Iran led to an inconclusive and costly eight-year war (1980-88). In August 1990, Iraq seized Kuwait but was expelled by US-led, UN coalition forces during the Gulf War of January-February 1991. Following Kuwait's liberation, the UN Security Council (UNSC) required Iraq to scrap all weapons of mass destruction and long-range missiles and to allow UN verification inspections. Continued Iraqi noncompliance with UNSC resolutions over a period of 12 years led to the US-led invasion of Iraq in March 2003 and the ouster of the SADDAM Husayn regime. US forces remained in Iraq under a UNSC mandate through 2009 and under a bilateral security agreement thereafter, helping to provide security and to train and mentor Iraqi security forces. In October 2005, Iraqis approved a constitution in a national referendum and, pursuant to this document, elected a 275-member Council of Representatives (COR) in December 2005. The COR approved most cabinet ministers in May 2006, marking the transition to Iraq's first constitutional government in nearly a half century. In January 2009, Iraq held elections for provincial councils in all governorates except for the three governorates comprising the Kurdistan Regional Government and Kirkuk Governorate. Iraq held a national legislative election in March 2010 - choosing 325 legislators in an expanded COR - and, after nine months of deadlock the COR approved the new government in December 2010. Nearly nine years after the start of the Second Gulf War in Iraq, US military operations there ended in mid-December 2011.

## Geography ::Iraq

Location:

Middle East, bordering the Persian Gulf, between Iran and Kuwait

Geographic coordinates:

33 00 N, 44 00 E

Map references:

Middle East

Area:

total: 438,317 sq km

country comparison to the world: 59  
land: 437,367 sq km  
water: 950 sq km

Area - comparative:  
slightly more than twice the size of Idaho

Land boundaries:  
total: 3,650 km  
border countries: Iran 1,458 km, Jordan 181 km, Kuwait 240 km, Saudi Arabia 814 km, Syria 605 km, Turkey 352 km

Coastline:  
58 km

Maritime claims:  
territorial sea: 12 nm  
continental shelf: not specified

Climate:  
mostly desert; mild to cool winters with dry, hot, cloudless summers; northern mountainous regions along Iranian and Turkish borders experience cold winters with occasionally heavy snows that melt in early spring, sometimes causing extensive flooding in central and southern Iraq

Terrain:  
mostly broad plains; reedy marshes along Iranian border in south with large flooded areas; mountains along borders with Iran and Turkey

Elevation extremes:  
lowest point: Persian Gulf 0 m  
highest point: unnamed peak; 3,611 m; note - this peak is neither Gundah Zhur 3,607 m nor Kuh-e Hajji-Ebrahim 3,595 m

Natural resources:  
petroleum, natural gas, phosphates, sulfur

Land use:  
arable land: 13.12%  
permanent crops: 0.61%  
other: 86.27% (2005)

Irrigated land:  
35,250 sq km (2008)

Total renewable water resources:  
96.4 cu km (1997)

Freshwater withdrawal (domestic/industrial/agricultural):  
total: 42.7 cu km/yr (3%/5%/92%)  
per capita: 1,482 cu m/yr (2000)

Natural hazards:  
dust storms; sandstorms; floods

Environment - current issues:  
government water control projects have drained most of the inhabited marsh areas east of An Nasiriyah by drying up or diverting the feeder streams and rivers; a once sizable population of

Marsh Arabs, who inhabited these areas for thousands of years, has been displaced; furthermore, the destruction of the natural habitat poses serious threats to the area's wildlife populations; inadequate supplies of potable water; development of the Tigris and Euphrates rivers system contingent upon agreements with upstream riparian Turkey; air and water pollution; soil degradation (salination) and erosion; desertification

Environment - international agreements:

party to: Biodiversity, Law of the Sea, Ozone Layer Protection  
signed, but not ratified: Environmental Modification

Geography - note:

strategic location on Shatt al Arab waterway and at the head of the Persian Gulf

People and Society ::Iraq

Nationality:

noun: Iraqi(s)

adjective: Iraqi

Ethnic groups:

Arab 75%-80%, Kurdish 15%-20%, Turkoman, Assyrian, or other 5%

Languages:

Arabic (official), Kurdish (official in Kurdish regions), Turkoman (a Turkish dialect), Assyrian (Neo-Aramaic), Armenian

Religions:

Muslim (official) 97% (Shia 60%-65%, Sunni 32%-37%), Christian or other 3%

*note:* while there has been voluntary relocation of many Christian families to northern Iraq, recent reporting indicates that the overall Christian population may have dropped by as much as 50 percent since the fall of the Saddam HUSSEIN regime in 2003, with many fleeing to Syria, Jordan, and Lebanon

Population:

31,129,225 (July 2012 est.)

country comparison to the world: 39

Age structure:

0-14 years: 38% (male 5,882,682/female 5,678,741)

15-64 years: 58.9% (male 9,076,558/female 8,826,545)

65 years and over: 3.1% (male 435,908/female 499,138) (2011 est.)

Median age:

total: 20.9 years

male: 20.8 years

female: 21 years (2011 est.)

Population growth rate:

2.345% (2012 est.)

country comparison to the world: 33

Birth rate:

28.19 births/1,000 population (2012 est.)

country comparison to the world: 43

Death rate:

4.73 deaths/1,000 population (July 2012 est.)

country comparison to the world: 195

Net migration rate:

0 migrant(s)/1,000 population (2012 est.)  
country comparison to the world: 88

Urbanization:

urban population: 66% of total population (2010)  
rate of urbanization: 2.6% annual rate of change (2010-15 est.)

Major cities - population:

BAGHDAD (capital) 5.751 million; Mosul 1.447 million; Erbil 1.009 million; Basra 923,000; As Sulaymaniyah 836,000 (2009)

Sex ratio:

at birth: 1.05 male(s)/female  
under 15 years: 1.04 male(s)/female  
15-64 years: 1.03 male(s)/female  
65 years and over: 0.87 male(s)/female  
total population: 1.03 male(s)/female (2012 est.)

Maternal mortality rate:

75 deaths/100,000 live births (2008)  
country comparison to the world: 83

Infant mortality rate:

total: 40.25 deaths/1,000 live births  
country comparison to the world: 62  
male: 44.43 deaths/1,000 live births  
female: 35.86 deaths/1,000 live births (2012 est.)

Life expectancy at birth:

total population: 70.85 years  
country comparison to the world: 144  
male: 69.41 years  
female: 72.35 years (2012 est.)

Total fertility rate:

3.58 children born/woman (2012 est.)  
country comparison to the world: 43

Health expenditures:

9.7% of GDP (2009)  
country comparison to the world: 33

Physicians density:

0.69 physicians/1,000 population (2009)

Hospital bed density:

1.3 beds/1,000 population (2009)

Drinking water source:

improved:  
urban: 91% of population  
rural: 55% of population  
total: 79% of population  
unimproved:  
urban: 9% of population

rural: 45% of population  
total: 21% of population (2008)

Sanitation facility access:  
improved:

urban: 76% of population  
rural: 66% of population  
total: 73% of population

unimproved:  
urban: 24% of population  
rural: 34% of population  
total: 27% of population (2008)

HIV/AIDS - adult prevalence rate:  
less than 0.1% (2001 est.)  
country comparison to the world: 131

HIV/AIDS - people living with HIV/AIDS:  
fewer than 500 (2003 est.)  
country comparison to the world: 155

HIV/AIDS - deaths:  
NA

Major infectious diseases:  
degree of risk: intermediate  
food or waterborne diseases: bacterial diarrhea, hepatitis A, and typhoid fever  
*note:* highly pathogenic H5N1 avian influenza has been identified in this country; it poses a negligible risk with extremely rare cases possible among US citizens who have close contact with birds (2009)

Children under the age of 5 years underweight:  
7.1% (2006)  
country comparison to the world: 72

Education expenditures:  
NA

Literacy:  
definition: age 15 and over can read and write  
total population: 74.1%  
male: 84.1%  
female: 64.2% (2000 est.)

School life expectancy (primary to tertiary education):  
total: 10 years  
male: 11 years  
female: 8 years (2005)

Government ::Iraq

Country name:  
conventional long form: Republic of Iraq  
conventional short form: Iraq  
local long form: Jumhuriyat al-Iraq  
local short form: Al Iraq

Government type:

parliamentary democracy

Capital:

name: Baghdad

geographic coordinates: 33 20 N, 44 24 E

time difference: UTC+3 (8 hours ahead of Washington, DC during Standard Time)

Administrative divisions:

18 governorates (muhafazat, singular - muhafazah) and 1 region\*; Al Anbar, Al Basrah, Al Muthanna, Al Qadisiyah (Ad Diwaniyah), An Najaf, Arbil (Erbil), As Sulaymaniyah, Babil, Baghdad, Dabuk, Dhi Qar, Diyala, Karbala', Kirkuk, Kurdistan Regional Government\*, Maysan, Ninawa, Salah ad Din, Wasit

Independence:

3 October 1932 (from League of Nations mandate under British administration); note - on 28 June 2004 the Coalition Provisional Authority transferred sovereignty to the Iraqi Interim Government

National holiday:

Republic Day, July 14 (1958); note - the Government of Iraq has yet to declare an official national holiday but still observes Republic Day

Constitution:

ratified 15 October 2005 (subject to review by the Constitutional Review Committee and a possible public referendum)

Legal system:

mixed legal system of civil and Islamic law

International law organization participation:

has not submitted an ICJ jurisdiction declaration; non-party state to the ICCt

Suffrage:

18 years of age; universal

Executive branch:

chief of state: President Jalal TALABANI (since 6 April 2005); Vice Presidents Tariq al-HASHIMI and Khudayr Musa Jafar Abbas al-KHUZAI

head of government: Prime Minister Nuri al-MALIki (since 20 May 2006)

cabinet: The Council of Ministers consists of the prime minister and cabinet ministers he proposes; approved by an absolute majority vote by the Council of Representatives

(For more information visit the [World Leaders website](#) )

elections: president elected by Council of Representatives (parliament) to serve a four-year term (eligible for a second term); election last held on 11 November 2010 (next to be held in 2014)

election results: President Jalal TALABANI reelected on 11 November 2010; parliamentary vote count on second ballot - 195 votes; Nuri al-MALIki reelected prime minister

Legislative branch:

unicameral Council of Representatives (325 seats consisting of 317 members elected by an optional open-list and representing a specific governorate, proportional representation system and 8 seats reserved for minorities; members serve four-year terms); note - Iraq's Constitution calls for the establishment of an upper house, the Federation Council

elections: last held on 7 March 2010 for an enlarged 325-seat parliament (next to be held in 2014)

election results: Council of Representatives - percent of vote by coalition - Iraqi National Movement 25.9%, State of Law coalition 25.8%, Iraqi National Alliance 19.4%, Kurdistan Alliance 15.3%, Goran (Change) List 4.4%, Tawafuq Front 2.7%, Iraqi Unity Alliance 2.9%,



Kurdistan Islamic Union 2.3%, Kurdistan Islamic Group 1.4%; seats by coalition - NA

#### Judicial branch:

the Iraq Constitution calls for the federal judicial power to be comprised of the Higher Judicial Council, Federal Supreme Court, Federal Court of Cassation, Public Prosecution Department, Judiciary Oversight Commission and other federal courts that are regulated in accordance with the law

#### Political parties and leaders:

Badr Organization [Hadi al-AMIRI]; Da'wa Party [Prime Minister Nuri al-MALIKI]; Da'wa Tanzim [Hashim al-MUSAWI branch]; Da-wa Tanzim [Abd al-Karim al-ANZI branch]; Fadilah Party [Hasan al-SHAMMARI and Ammar TUAMA]; Goran (Change) List [Nushirwan MUSTAFA]; Hadba Gathering [Athil al-NUJAYFI]; Iraqi Covenant Gathering [Ahmad Abd al-Ghafur al-SAMARRAI]; Iraqi Constitutional Party [Jawad al-BULANI]; Iraqi Front for National Dialogue [Deputy Prime Minister Salih al-MUTLAQ]; Iraqi Islamic Party or IIP [Usama al-TIKRITI]; Iraqi Justice and Reform Movement [Shaykh Abdallah al-YAWR]; Iraqi National Accord or INA [Ayad ALLAWI, former Interim Government prime minister]; Iraqi National Congress or INC [Ahmad CHALABI]; Iraqi National Accord or INA [Ayad ALLAWI]; Islamic Supreme Council of Iraq or ISCI [Ammar al-HAKIM]; Kurdistan Democratic Party or KDP [Kurdistan Regional Government President Masud BARZANI]; Future National Gathering [Finance Minister Rafi al-ISSAWI]; National Iraqiyyun Gathering [Usama al-NUJAYFI]; National Movement for Reform and Development [Jamal al-KARBULI]; National Reform Trend [former Prime Minister Ibrahim al-JAFARI]; Patriotic Union of Kurdistan or PUK [President Jalal TALABANI]; Renewal List [Vice President Tariq al-HASHIMI]; Sadrist Trend [Muqtada al-SADR]; Sahawa al-Iraq [Ahmad al-RISHAWI]

*note:* numerous smaller local, tribal, and minority parties

#### Political pressure groups and leaders:

Sunni militias; Shia militias, some associated with political parties

#### International organization participation:

ABEDA, AFESD, AMF, CAEU, CICA, FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IDB, IFAD, IFC, IFRCs, ILO, IMF, IMO, IMSO, Interpol, IOC, IPU, ISO, ITSO, ITU, LAS, MIGA, NAM, OAEPC, OIC, OPCW, OPEC, PCA, UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WCO, WFTU, WHO, WIPO, WMO, WTO (observer)

#### Diplomatic representation in the US:

chief of mission: Ambassador Jabir Habib JABIR

chancery: 3421 Massachusetts Ave, NW, Washington, DC 20007

telephone: [1] (202) 742-1600

FAX: [1] (202) 333-1129

#### Diplomatic representation from the US:

chief of mission: Ambassador James F. JEFFREY

embassy: Baghdad

mailing address: APO AE 09316

telephone: 1-240-553-0589 ext. 5340 or 5635; note - Consular Section

FAX: NA

#### Flag description:

three equal horizontal bands of red (top), white, and black; the Takbir (Arabic expression meaning "God is great") in green Arabic script is centered in the white band; the band colors derive from the Arab Liberation flag and represent oppression (black), overcome through bloody struggle (red), to be replaced by a bright future (white); the Council of Representatives approved this flag in 2008 as a compromise temporary replacement for the Ba'athist Saddam-era flag

*note:* similar to the flag of Syria, which has two stars but no script, Yemen, which has a plain white

band, and that of Egypt, which has a gold Eagle of Saladin centered in the white band

National symbol(s):

golden eagle

National anthem:

name: "Mawtini" (My Homeland)



lyrics/music: Ibrahim TOUQAN/Mohammad FLAYFEL

*note:* adopted 2004; following the ousting of Saddam HUSSEIN, Iraq adopted "Mawtini," a popular folk song throughout the Arab world, which also serves as an unofficial anthem of the Palestinian people

Economy ::Iraq

Economy - overview:

An improving security environment and foreign investment are helping to spur economic activity, particularly in the energy, construction, and retail sectors. Broader economic development, long-term fiscal health, and sustained improvements in the overall standard of living still depend on the central government passing major policy reforms. Iraq's largely state-run economy is dominated by the oil sector, which provides more than 90% of government revenue and 80% of foreign exchange earnings. Since mid-2009, oil export earnings have returned to levels seen before Operation Iraqi Freedom. As global oil prices remained high for much of 2011, government revenues increased accordingly. For 2012, Iraq's draft budget forecasts oil exports of 2.6 million barrels per day (bbl/day), a significant increase from Iraq's average of 2.2 million bbl/day in 2011. Iraq's contracts with major oil companies have the potential to further expand oil revenues, but Iraq will need to make significant upgrades to its oil processing, pipeline, and export infrastructure to enable these deals to reach their economic potential. Iraq is making slow progress enacting laws and developing the institutions needed to implement economic policy, and political reforms are still needed to assuage investors' concerns regarding the uncertain business climate. The government of Iraq is eager to attract additional foreign direct investment, but it faces a number of obstacles including a tenuous political system and concerns about security and societal stability. Rampant corruption, outdated infrastructure, insufficient essential services, and antiquated commercial laws stifle investment and continue to constrain growth of private, nonoil sectors. In 2010, Baghdad signed agreements with both the IMF and World Bank for conditional aid programs designed to help strengthen Iraq's economic institutions. Iraq is considering a package of laws to establish a modern legal framework for the oil sector and a mechanism to equitably divide oil revenues within the nation, although these reforms are still under contentious and sporadic negotiation. Political and economic tensions between Baghdad and local governments have led some provincial councils to use their budgets to independently promote and facilitate investment at the local level. The Central Bank has successfully held the exchange rate at about 1,170 Iraqi dinar/US dollar since January 2009. Inflation has remained under control since 2006 as security improved. However, Iraqi leaders remain hard pressed to translate macroeconomic gains into an improved standard of living for the Iraqi populace. Unemployment remains a problem throughout the country. Encouraging private enterprise through deregulation would make it easier for both Iraqi citizens and foreign investors to start new businesses. Rooting out corruption and implementing reforms - such as bank restructuring and developing the private sector - would be important steps in this direction.

GDP (purchasing power parity):

\$127.2 billion (2011 est.)

country comparison to the world: 62

\$116 billion (2010 est.)

\$115.1 billion (2009 est.)

*note:* data are in 2011 US dollars

GDP (official exchange rate):

\$108.6 billion (2011 est.)

GDP - real growth rate:

9.6% (2011 est.)

country comparison to the world: 6

0.8% (2010 est.)

4.2% (2009 est.)

GDP - per capita (PPP):

\$3,900 (2011 est.)

country comparison to the world: 161

\$3,600 (2010 est.)

\$3,700 (2009 est.)

*note:* data are in 2011 US dollars

GDP - composition by sector:

agriculture: 9.7%

industry: 60.5%

services: 29.8% (2011 est.)

Labor force:

8.9 million (2010 est.)

country comparison to the world: 53

Labor force - by occupation:

agriculture: 21.6%

industry: 18.7%

services: 59.8% (2008 est.)

Unemployment rate:

15% (2010 est.)

country comparison to the world: 149

15.3% (2009 est.)

Population below poverty line:

25% (2008 est.)

Household income or consumption by percentage share:

lowest 10%: 3.6%

highest 10%: 25.7%

Budget:

revenues: \$69.2 billion

expenditures: \$82.6 billion (2011 est.)

Taxes and other revenues:

88.6% of GDP (2011 est.)

country comparison to the world: 1

Budget surplus (+) or deficit (-):

18.8% of GDP (2011 est.)

country comparison to the world: 4

Inflation rate (consumer prices):

6% (2011 est.)

country comparison to the world: 143

2.4% (2010 est.)

Central bank discount rate:

6% (December 2011)

country comparison to the world: 58

6.5% (31 December 2010 est.)

Commercial bank prime lending rate:

7.2% (31 December 2011 est.)

country comparison to the world: 143

6% (31 December 2010 est.)

Stock of narrow money:

\$50.3 billion (31 December 2011 est.)

country comparison to the world: 47

\$44.22 billion (31 December 2010 est.)

Stock of broad money:

\$58.69 billion (31 December 2011 est.)

country comparison to the world: 65

\$51.61 billion (31 December 2010 est.)

Stock of domestic credit:

\$11.11 million (31 December 2011 est.)

country comparison to the world: 191

\$10.16 billion (31 December 2007 est.)

Market value of publicly traded shares:

\$4 billion (9 December 2011)

country comparison to the world: 92

\$2.6 billion (31 July 2010)

\$2 billion (31 July 2009 est.)

Agriculture - products:

wheat, barley, rice, vegetables, dates, cotton; cattle, sheep, poultry

Industries:

petroleum, chemicals, textiles, leather, construction materials, food processing, fertilizer, metal fabrication/processing

Industrial production growth rate:

4.8% (2010 est.)

country comparison to the world: 75

Electricity - production:

48.96 billion kWh (2010 est.)

country comparison to the world: 50

Electricity - consumption:

55.66 billion kWh (2010 est.)

country comparison to the world: 44

Electricity - exports:

0 kWh (2011 est.)

Electricity - imports:

6.7 billion kWh (2010 est.)

Oil - production:

2.642 million bbl/day (2011 est.)

country comparison to the world: 9Oil - consumption:

694,000 bbl/day (2010 est.)

country comparison to the world: 26Oil - exports:

2.17 million bbl/day (2011 est.)

country comparison to the world: 7Oil - imports:

231,200 bbl/day (2009 est.)

country comparison to the world: 44Oil - proved reserves:

115 billion bbl (1 January 2011 est.)

country comparison to the world: 5Natural gas - production:

1.3 billion cu m (2010 est.)

country comparison to the world: 62Natural gas - consumption:

1.3 billion cu m

country comparison to the world: 86*note:* 1.48 billion cu m were flared (2010 est.)Natural gas - exports:

0 cu m (2010 est.)

country comparison to the world: 119Natural gas - imports:

0 cu m (2010 est.)

country comparison to the world: 208Natural gas - proved reserves:

3.17 trillion cu m (1 January 2011 est.)

country comparison to the world: 11Current account balance:

\$17.37 billion (2011 est.)

country comparison to the world: 21

\$2.096 billion (2010 est.)

Exports:

\$78.38 billion (2011 est.)

country comparison to the world: 49

\$51.76 billion (2010 est.)

Exports - commodities:

crude oil 84%, crude materials excluding fuels, food and live animals

Exports - partners:

US 24.3%, India 16.7%, China 12.1%, South Korea 8.2%, Italy 6.9%, Japan 6.6% (2010)

Imports:

\$53.93 billion (2011 est.)  
country comparison to the world: 52  
\$43.92 billion (2010 est.)

Imports - commodities:  
food, medicine, manufactures

Imports - partners:  
Turkey 24.2%, Syria 18.6%, China 14.4%, US 6.6% (2010)

Reserves of foreign exchange and gold:  
\$53.47 billion (31 December 2011 est.)  
country comparison to the world: 31  
\$48.61 billion (31 December 2010 est.)

Debt - external:  
\$45.29 billion (31 December 2011 est.)  
country comparison to the world: 59  
\$52.58 billion (31 December 2010 est.)

Exchange rates:  
Iraqi dinars (IQD) per US dollar -  
1,170 (2011 est.)  
1,170 (2010 est.)  
1,170 (2009)  
1,176 (2008)  
1,255 (2007)

Fiscal year:  
calendar year

Communications ::Iraq

Telephones - main lines in use:  
1.6 million (2010)  
country comparison to the world: 63

Telephones - mobile cellular:  
24 million (2010)  
country comparison to the world: 39

Telephone system:

general assessment: the 2003 liberation of Iraq severely disrupted telecommunications throughout Iraq including international connections; widespread government efforts to rebuild domestic and international communications through fiber optic links are in progress; the mobile cellular market has expanded rapidly and its subscribership base is expected to continue increasing rapidly  
domestic: repairs to switches and lines destroyed during 2003 continue; additional switching capacity is improving access; mobile-cellular service is available and centered on 3 GSM networks which are being expanded beyond their regional roots, improving country-wide connectivity; wireless local loop is available in some metropolitan areas and additional licenses have been issued with the hope of overcoming the lack of fixed-line infrastructure  
international: country code - 964; satellite earth stations - 4 (2 Intelsat - 1 Atlantic Ocean and 1 Indian Ocean, 1 Intersputnik - Atlantic Ocean region, and 1 Arabsat (inoperative)); local microwave radio relay connects border regions to Jordan, Kuwait, Syria, and Turkey; international terrestrial fiber-optic connections have been established with Saudi Arabia, Turkey, and Kuwait with planned connections to Iran and Jordan; a link to the Fiber-Optic Link Around the Globe

(FLAG) submarine fiber-optic cable is planned (2009)

Broadcast media:

the number of private radio and TV stations has increased rapidly since 2003; government-owned TV and radio stations are operated by the publicly-funded Iraqi Public Broadcasting Service; private broadcast media are mostly linked to political, ethnic, or religious groups; satellite TV is available to an estimated 70% of viewers and many of the broadcasters are based abroad; transmissions of multiple international radio broadcasters are accessible (2007)

Internet country code:

.iq

Internet hosts:

23 (2011)

country comparison to the world: 219

Internet users:

325,900 (2009)

country comparison to the world: 126

Transportation ::Iraq

Airports:

104 (2010)

country comparison to the world: 58

Airports - with paved runways:

total: 75

over 3,047 m: 20

2,438 to 3,047 m: 36

1,524 to 2,437 m: 5

914 to 1,523 m: 6

under 914 m: 8 (2010)

Airports - with unpaved runways:

total: 29

over 3,047 m: 3

2,438 to 3,047 m: 4

1,524 to 2,437 m: 3

914 to 1,523 m: 13

under 914 m: 6 (2010)

Heliports:

21 (2010)

Pipelines:

gas 2,447 km; liquid petroleum gas 918 km; oil 5,104 km; refined products 1,637 km (2010)

Railways:

total: 2,272 km

country comparison to the world: 66

standard gauge: 2,272 km 1.435-m gauge (2008)

Roadways:

total: 44,900 km

country comparison to the world: 82

paved: 37,851 km

unpaved: 7,049 km (2002)

Waterways:

5,279 km (the Euphrates River (2,815 km), Tigris River (1,899 km), and Third River (565 km) are the principal waterways) (2010)

country comparison to the world: 23

Merchant marine:

total: 2

country comparison to the world: 142

by type: petroleum tanker 2

registered in other countries: 2 (Marshall Islands 2) (2011)

Ports and terminals:

Al Basrah, Khawr az Zubayr, Umm Qasr

Military ::Iraq

Military branches:

Counterterrorism Service Forces: Counterterrorism Command; Iraqi Special Operations Forces (ISOF); Ministry of Defense Forces: Iraqi Army (includes Army Aviation Directorate, former National Guard Iraqi Intervention Forces, and Strategic Infrastructure Battalions), Iraqi Navy (former Iraqi Coastal Defense Force, includes Iraq Marine Force), Iraqi Air Force (Al-Quwwat al-Jawwiya al-Iraqiya) (2011)

Military service age and obligation:

18-40 years of age for voluntary military service (2010)

Manpower available for military service:

males age 16-49: 7,767,329

females age 16-49: 7,461,766 (2010 est.)

Manpower fit for military service:

males age 16-49: 6,591,185

females age 16-49: 6,421,717 (2010 est.)

Manpower reaching militarily significant age annually:

male: 332,194

female: 322,010 (2010 est.)

Military expenditures:

8.6% of GDP (2006)

country comparison to the world: 5

Transnational Issues ::Iraq

Disputes - international:

approximately two million Iraqis have fled the conflict in Iraq, with the majority taking refuge in Syria and Jordan, and lesser numbers to Egypt, Lebanon, Iran, and Turkey; Iraq's lack of a maritime boundary with Iran prompts jurisdiction disputes beyond the mouth of the Shatt al Arab in the Persian Gulf; Turkey has expressed concern over the autonomous status of Kurds in Iraq

Refugees and internally displaced persons:

refugees (country of origin): 10,000-15,000 (Palestinian Territories); 11,773 (Iran); 16,832 (Turkey)

IDPs: 2.4 million (ongoing US-led war and ethno-sectarian violence) (2007)

Trafficking in persons:

current situation: Iraq is a source and destination country for men, women, and children subjected



to sex trafficking and forced labor; Iraqi women and girls are subjected to conditions of trafficking within the country and in Syria, Lebanon, Jordan, Kuwait, the United Arab Emirates, Turkey, Iran, Yemen, and Saudi Arabia for forced prostitution and sexual exploitation within households; women from Iran, China, and the Philippines reportedly may be trafficked to or through Iraq for commercial sexual exploitation; Iraq is also a destination country for men and women who migrate from Bangladesh, India, Indonesia, Nepal, the Philippines, Sri Lanka, Thailand, Pakistan, Georgia, Jordan, and Uganda and are subsequently subjected to involuntary servitude as construction workers, security guards, cleaners, handymen, and domestic workers

tier rating: Tier 2 Watch List - the government did not demonstrate evidence of significant efforts to punish traffickers or proactively identify victims; it has not enacted its draft anti-trafficking legislation and has reported no other efforts to prosecute or punish traffickers (2011)