

**In the name of the people, the Presidential Council, based on the provisions of clause (first) of article (61) and clause (third) of article (73) of the constitution,**

**The following law has been promulgated:**

**No. () for the year 2019**

**The Anti-Torture Act.**

**Article 1: The provisions of this law shall apply to:**

Firstly: Any person who has been subjected to torture.

Secondly: Any person who committed any act of torture, whether the original actor, associate, instigator or concealer.

**Article 2: For the purposes of this Law, the following expressions shall have the meanings hereunder assigned to them**

Firstly: The crime of torture: Any act or inaction of an investigator, constituting an assault, which takes place in order to obtain a confession from a person during the stages of arrest, investigation or detention and which causes harm as a result of physical or psychological pain or suffering or inhuman or degrading treatment.

**Article 3: This law aims to:**

1. Strengthen prevention and deterrence frameworks against the crime of torture.
2. Promote and protect human rights and human dignity.
3. Legally protect detainees or prisoners.
4. Prohibit the use of evidence obtained under torture during investigation and trial.

**Article 4:**

Firstly: In cases where they are aware of torture or the submission of a request has been made, investigative and judicial authorities are committed to submit the accused to a medical examination in order to establish whether or not they have been subjected to torture.

Secondly: The investigating judge or his representative or the investigating authorities shall conduct the investigation and refer every person who was tortured to medical committees within 24 hours after knowing of the existence of torture.

**Article 5:**

Firstly: The superior of the person who committed the crime of torture is a partner in the crime in the following cases:

1. If he knows that one of his subordinates, working under his command, has committed or attempted to commit the crime of torture or deliberately omits or conceals information that clearly indicates that crime.
2. Issues orders requiring any acts of torture or has responsibility and control over the activities to which the crime is connected.
3. If he has not taken the necessary or appropriate measures which he could have taken to avoid or prevent the commission of the crime or to submit the matter to the competent authorities for the purposes of investigation and prosecution.

Secondly: Not to invoke orders issued by the highest ranking employees to justify the crime if such orders are illegal.

Thirdly: No exceptional circumstances may be invoked, whether it be a state of war, the threat of war, internal armed conflict, or any exceptional case, to justify the commission of the crimes referred to in this law.

**Article 6:**

Firstly: Torture cases are referred to the Human Rights Court.

**Article 7:**

1. Anyone who has been subjected to torture shall be put in another place of custody under the supervision of the Public Prosecution.
2. Once the case of torture has been established, the judicial authorities shall remove the persons accused of committing acts of torture from the investigation and take legal action against them.

**Article 8:**

Firstly: The Investigating Court shall not take the statements obtained from the person who has been tortured as evidence against him.

Secondly: The investigating judge may review the investigation of cases in which the act of torture is established.

**Article 9:**

The investigative or judicial bodies shall undertake the following legal guarantees:

Firstly: The accused shall be able to inform his family or a third party of the place of his detention after his arrest.

Second: Witnesses who provide information or communications concerning acts of torture shall be protected.

**Article 10:**

Firstly: The government should form a permanent national committee against torture composed of the following:

1. A representative of the President of the Supreme Judicial Council at the level of judge of the first rank.
2. A representative of the Minister of Justice at the level of Director General.
3. A representative of the Minister of Defense at the level of Director General.
4. A representative of the Minister of Interior at the level of Director General.
5. A representative of the Minister of Health at the level of Director General.
6. A representative of the Ministry of Foreign Affairs at the level of Director General.
7. A representative of the Iraqi High Commission for Human Rights at the level of Commissioner.
8. A representative of the Iraqi High Commission for Human Rights in the Kurdistan Region at the level of Commissioner.

Second: The Committee shall:

1. Approve the national plan against torture and follow-up the implementation of the law.
2. Participate in the preparation of reports against torture.

3. Prepare retraining programmes for investigators on the mechanisms against torture.

**Article 11:**

The Government shall ensure the establishment of health centers for physical and psychological rehabilitation, and the integration and rehabilitation of victims in society.

**Article 12:**

Compensation claims for material or moral damages by persons affected by acts of torture shall be reviewed by the civil courts.

**Article 13:**

Firstly: A penalty of imprisonment and a fine of not less than fifteen million dinars (15,000,000) and not more than fifty million dinars (50,000,000) or one of these two penalties shall be imposed on anyone who has committed the crime of torture.

Secondly: is considered an aggravating circumstance to have committed the crime of torture by abuse of functions, and for such torture to have led to the death of the person, and shall be punishable by life imprisonment and a fine not less than fifty million dinars (50,000,000) and not more than one hundred million dinars (100,000,000).

**Article 14:**

**Final Provisions**

Firstly: The provisions of the Iraqi Penal Code No. 1969 and the Code of Criminal Procedure No. 1, 2006 shall apply to whatever is not provided for in this Law.

**Article 15:**

The Council of Ministers shall issue the necessary instructions to facilitate the implementation of the provisions of this Law within three months from the date of its coming into force.

**Article 16:**

This law shall come into force from the date of its publication in the Official Gazette.

**Rationale**

Because of the serious impact of this crime in undermining the faith of citizens in the rule of law, and the fairness of judicial decisions, and in order to prohibit all acts of torture and to harmonize national legislation with the provisions of the International Convention against Torture.

This law was adopted