



**Written Submission on the United Kingdom
submitted by
Geneva International Centre for Justice (GICJ)
to
The Committee Against Torture (CAT)
66th Session, 23 April – 17 May 2019
Geneva, Switzerland**

Introduction

1. Geneva International Centre for Justice (GICJ) is pleased to offer this submission to the Committee against Torture (the Committee) on the state of the United Kingdom's compliance with the Convention against Torture (the Convention).
2. Since it was established, GICJ has been tackling issues of justice and accountability. GICJ maintains partnerships with various NGOs, lawyers and a vast civil society network, especially within the Middle East region. Through these channels, GICJ receives documentation and evidence of human rights violations and abuses in many countries, including Iraq, as they occur. GICJ reports on human rights violations through its regular participation at sessions of the Human Rights Council and reports to various human rights treaty bodies.

Background

3. The United Kingdom (UK) was part of the US-led coalition that illegally invaded Iraq in March 2003. The invasion was followed by an occupation involving UK military forces. Although the involvement of the UK in the occupation officially ended in June 2004 with a new Interim Government taking power in Iraq, UK forces remained in Iraq at the request of the new Iraqi government until their complete withdrawal in May 2011.
4. In 2009, the UK Government established an inquiry (officially called "The Iraq Inquiry") to examine the circumstances of the UK's participation in the invasion and its subsequent role in the occupation of Iraq. Regarding the decision to invade, the inquiry concluded that "the circumstances in which it was decided that there was a legal basis for UK military action were far from satisfactory." The inquiry chairman said that the basis of Prime Minister Tony Blair's decision was "not clear" and involved "flawed intelligence and assessments" that "were not challenged, and they should have been." The inquiry also determined that the UK "failed to take account of the magnitude of the task of

stabilising, administering and reconstructing Iraq” and that its “effort in post-conflict Iraq never matched the scale of the challenge.” The UK went into the Iraq invasion without sufficient resources and became primarily focused on pulling its forces out of Iraq as soon as possible.¹

5. While UK forces were in Iraq, they operated several detention centres. Many of the detainees in UK custody suffered torture, inhumane treatment, sexual violence and other ill treatment at the hands of UK military personnel. Some detainees died as a result of their mistreatment or were simply killed by the soldiers. In one case that is currently being litigated, a detainee was beaten unconscious, locked naked in a solitary cell with rats, and repeatedly force-fed when he when on a hunger strike. He was kept in the dark for over two years.² Another such case was Baha Mousa who died after being severely beaten at an interrogation facility.³ An inquiry into Baha Mousa’s death discovered that military personnel were using prohibited interrogation techniques that amount to torture. These and other cases led to a ruling by the British High Court that British troops and the Ministry of Defence breached the Geneva conventions in the way they handled detained civilians.⁴ The Prosecutor of the International Criminal Court (ICC) has documented at least seven deaths at the hands of UK military personnel in Iraq.⁵

Justice for Iraqi Victims of Torture

6. GICJ wishes to raise its concern about the lengthy time the UK is taking to address these cases of torture and other abuse of Iraqi citizens by British military personnel following the 2003 invasion. Article 7(2) of the Convention specifies that, while guaranteeing fair treatment of the accused, the prosecution of allegations of torture by a State shall be conducted “in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.” We question whether the many different special entities and procedures that have been used for addressing these cases comply with this obligation. We note the ongoing assessment by the ICC Prosecutor as to whether the UK processes are truly genuine or whether their conduct is delaying justice and making prosecution of the crime more difficult.⁶ We urge the Committee to press the UK delegation on this matter and request that the UK government ensure that evidence and witnesses are protected.

¹ *Sir John Chilcot’s Public Statement, 2 July 2016*, UK National Archives, <https://webarchive.nationalarchives.gov.uk/20171123124608/http://www.iraqinquiry.org.uk/the-inquiry/sir-john-chilcots-public-statement/>.

² *UK Government Demands Secrecy for High-Profile Torture Case*, Middle East Eye (8 Mar. 2017), <https://www.middleeasteye.net/news/uk-government-demands-secrecy-high-profile-torture-case>.

³ Transcript of Statement by Sir William Gage, Chairman of the Baha Mousa Inquiry, at 5–6 (8 Sept. 2011), <https://webarchive.nationalarchives.gov.uk/20120215203921/http://www.bahamousainquiry.org/report/index.htm>.

⁴ *British Troops Breached Geneva Conventions in Iraq, High Court Rules*, The Guardian (14 Dec. 2017), <https://www.theguardian.com/world/2017/dec/14/british-troops-breached-geneva-conventions-in-iraq-high-court-rules>.

⁵ The Office of the Prosecutor, International Criminal Court, *Report on Preliminary Examination Activities 2018* para. 196 (Dec. 2018).

⁶ *Id.*, paras. 205–206.

7. The State Party report makes specific reference to the discrediting of many allegations due to the professional misconduct of a prominent solicitor.⁷ Such professional misconduct is concerning because it diverts attention away from legitimate claims and may give rise to political backlash. We are concerned that this may result in the government disregarding or discrediting remaining credible allegations. We urge the Committee to help ensure this does not happen. Regardless of the misconduct of one solicitor, the State Party remains obligated to continue with proper investigation and prosecution of all remaining allegations.
8. GICJ supports the Committee's previous concluding observations to the UK in 2013 pointing out the UK's failure to truly examine the systemic nature of torture, including the role of military and political leaders. Although the UK has conducted a few public inquiries into high-profile cases of abuse by military personnel, the Committee expressed concern about the UK's "resist[ance to] a full public inquiry that would assess the extent of torture...and establish possible command responsibility for senior political and military figures." In addition, the Committee noted deep concern that there had been "no criminal prosecutions for torture or complicity in torture involving State's officials, members of the security services of military personnel" in spite of there having been a number of court-martials of soldiers for abusing Iraqi civilians.⁸ GICJ also shares the Committee's deep concern about the lack of appropriate penalties for torture or inhumane treatment.⁹
9. GICJ wishes to highlight the Committee's call that all victims "obtain redress and are provided with effective remedy and reparation."¹⁰ Through remedy and reparation the victims of torture and other abuses will finally receive justice. We cannot stress enough the importance of moving forward with the investigations expeditiously in order to help the victims and their families begin rebuilding their lives.

Conclusion

10. Torture is a grave violation of human rights and must be addressed swiftly and decisively. We stress the need for timely resolution of the allegations of torture against UK military personnel. It has already been more than a decade since most of the torture and abuse took place, and the UK has failed to resolve the issue in all that time. The UK must ensure that the investigation and prosecution of these allegations are given full attention and resources in order to achieve justice for the victims and send a clear message that perpetrators of torture and ill treatment will not enjoy impunity.

⁷ Sixth Periodic Report Submitted by the United Kingdom of Great Britain and Northern Ireland, para. 222, U.N. Doc. CAT/C/GBR/6 (29 Jan. 2018).

⁸ Committee against Torture, *Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland*, para. 16, U.N. Doc. CAT/C/GBR/CO/5 (24 Jun. 2013).

⁹ *Id.* at para. 17.

¹⁰ *Id.* at para. 16.