

Basic Human Rights Manual For Detention Officers in Iraq

The information given in this booklet is based on the standards agreed in international regulations. It covers the main aspects of daily life in places of detention.

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Section 1 - Basic Principles

International Standards

The rights of anyone subject to detention and imprisonment are protected by several United Nations treaties. Some of these set out rules for the treatment of prisoners and detainees.

- International Covenant on Civil and Political Rights
- *Standard Minimum Rules for the Treatment of Prisoners*
- *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*
- *Basic Principles for the Treatment of Prisoners*
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

Some of them deal specifically with the conduct of law enforcement officials. These include:

- *Code of Conduct for Law Enforcement Officials*
- *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*

What do the standards tell us?

- All detainees and prisoners lose their right to freedom of movement but they keep their rights as human beings when they are in detention.
- They must not be treated in an inhuman or degrading way.
- International standards forbid all forms of torture. Torture does not just mean inflicting physical or mental pain. It includes all forms of inhuman or degrading treatment.

Why is it better to manage in this way?

- Treating prisoners and detainees as human beings is not just a question of following international standards. It is of benefit to staff.
- People who have worked in some of the most difficult prisons in the world are convinced that this is also the most effective and efficient way to manage a prison.

Section 2 - On first detention or arrest

The greatest risk of mistreatment is when people are first detained.

Lawful detention order

- People can only be detained in accordance with Iraqi law.
- The police may hold someone in detention for 24 hours on reasonable suspicion that they have been involved in a crime.
- After the first 24 hours detainees can only be held on the orders of an Investigative Judge.
- You must not receive anyone into detention without a valid order from a judge.

Recording the details

- You must keep a record of the details of each detainee. As a minimum the record must include:
 - the personal details of the detainee (for example, date of birth, weight, height, name, gender)
 - the reasons for detention
 - the judicial authority who approved the detention
 - the day and time of detention
 - the date of release (convicted prisoners)
 - the date of any court appearance (pre-trial prisoners)

Notifying the family and legal representative

- You must allow detainees to let their families or friends know where they are as soon as possible.
- The detention centre should allow detainees to make a free telephone call for this purpose.
- You must also allow detainees to consult a legal representative, especially if they have not yet been convicted of an offence.

Information to prisoners

- You must explain to detainees what their rights and responsibilities are in detention.
- You must ensure that detainees who cannot read are able to understand all of these rules and procedures.
- As a minimum you must give information about:
 - their rights in detention
 - the rules and disciplinary procedures of the centre
 - how to make a complaint
 - any other information that may make it easier for them to adapt to life in detention

Unconvicted detainees

- Detainees who have not been convicted of an offence must be treated as innocent.
- Unlike convicted prisoners their detention is not a punishment.

Access by investigating officers

- Investigating officers may only have access to detainees if they can show you a judicial order relating to that specific individual. It is your responsibility not to give access to a detainee without this authority.
- Detainees can refuse to answer the questions of an investigating officer if their lawyer is not present.

Medical examination

- Everyone received into detention must be given a medical examination as soon as possible.
- This is explained fully in Section 4.

Section 3 - Physical Conditions of Detention

Accommodation

- You must keep different categories of detainees and prisoners separately from each other:
 - pre-trial detainees must be kept separately from convicted prisoners
 - women must be held separately from men
 - if children and young persons are detained they must be kept separately from adults
- If detainees or prisoners are held in dormitories or shared cells, you must assess whether they are suitable to live together.
- Each detainee must have enough space.
- All cells and dormitories must have adequate heating, lighting and ventilation.
- Every detainee or prisoner should have his own bed or mattress with clean bedding.

Food

- You must serve sufficient food free of charge for all detainees and prisoners at the normal times each day.
- The food must be of sufficient quantity and quality to maintain good health.
- The food must also meet the medical, religious and cultural needs of individual detainees and prisoners.

Water

- You must provide clean drinking water to all detainees and prisoners whenever they need it.

Hygiene

- All detainees and prisoners must have access to facilities which allow them to keep themselves clean.
- They must be able to bathe or shower as often as is necessary to maintain their personal hygiene.
- The detention centre must provide soap and towels.
- Sanitary installations must be sufficient to allow detainees and prisoners to comply with their bodily needs in private and in a clean and decent manner.

Clothing

- Unconvicted detainees are normally allowed to wear their own clothes.
- The authorities must supply clothing to any detainees who do not have their own suitable clothing.
- All clothing must be suitable for the region and the weather conditions.
- Detainees and prisoners must be allowed to wear their own clothing in public, for example when being taken to appear in court.
- The clothing or uniform supplied by the authorities must be appropriate and must not humiliate the detainee. The clothing must be of the normal type worn in the region.
- The detention centre must provide suitable facilities to wash clothing and uniforms.

Exercise and fresh air

- All detainees and prisoners are entitled to exercise every day in the open air.
- In prisons or detention centres where prisoners or detainees work, any who do not work outside must be able to spend at least one hour in the open air each day.

Association with other prisoners

- If detainees and prisoners are kept in individual cells they must have the opportunity to spend time with others for part of each day unless it is strictly necessary for health or security reasons. The medical officer must authorise any refusal of association on medical grounds.

Section 4 - Healthcare

General principles

- When the state imprisons or detains someone it takes on responsibility to look after their health.
- The state must provide individual medical treatment for detainees and prisoners and healthy living conditions.
- All necessary medical care and treatment must be provided free of charge.
- The standard of medical care must be at least the same as that in the outside community.

Admission

- Detainees must be offered a medical examination when they first arrive in detention.
- If a doctor is not immediately available, detainees must be seen by a suitably qualified nurse. The nurse must report any concerns as soon as possible to the doctor.
- The medical examination will identify and ensure proper treatment for any existing medical condition.
- It will also identify any injuries and may protect detention officers from false allegations.
- The person carrying out the examination must report any injuries immediately to the appropriate authorities.

Treatment

- Detainees and prisoners must be able to see a suitably qualified medical officer on a regular basis.
- Women and juveniles must also be able to see specialists in women's and children's medicine.
- The prison administration must provide suitable premises and equipment for consultation and for emergency treatment
- They must also supply an adequate quantity of appropriate medicines.

Confidentiality

- Detainees and prisoners who require medical attention are patients. They are entitled to privacy both in consultation with medical staff and in their treatment.
- All medical consultations and treatments are confidential.
- They must be based on the needs of the detainee or prisoner and not on those of the administration.
- If safety is a serious concern, consultations may take place within sight but not within hearing of a detention officer.
- The medical records of all detainees and prisoners must remain under the control of the medical officer. They are not part of the general prison records.

Specialist treatment and treatment outside the detention centre

- The administration must also make suitable arrangements for access to specialist consultation and in-patient (hospital) care.

- This requires close links with the medical services outside the prison.
- Outside treatment will involve special escort arrangements.
- The escort arrangements must be suitable and decent and must not lead to delays in the treatment of detainees or prisoners.
- The conditions in which detainees and prisoners are transported must be appropriate to their medical condition.

Healthy environment

- You must also provide healthy living conditions for detainees and prisoners. These requirements are set out in Section 3.
- The prison doctor must inspect these facilities regularly and ensure that they are healthy.
- He should advise the centre's director of any concerns.
- There is a particular risk of spreading diseases in detention if hygiene is poor or living conditions are overcrowded.
- This presents a risk not simply to the detainees and prisoners but to staff and to the wider community.

Mental Health

- Detention officers must monitor the effect of detention on the mental health of detainees and prisoners.
- You must report any concerns to a doctor, your superior or the governor.

Section 5 - Contact with family and the outside world

Basic principles

- Detainees and prisoners lose the right to freedom of movement and association. They do not lose the right to communication and contact with the outside world.
- In particular they have the right to contact with their families and with their legal representatives.
- Family members outside prison also have the right to contact with the detainee or prisoner.
- The prison administration must make the best possible arrangements to ensure that contact between a detainee or prisoner and his family is maintained.

Visits

- Visits, especially with close family members, are not privileges. They are part of the right to family life.
- These visits should take place in conditions which are as natural as possible, especially if the visitors include children.

Access to legal representation

- All detainees and prisoners have the right of access to their legal representative.
- This is especially important for pre-trial detainees and convicted prisoners who are still involved in the judicial process (for example they are appealing their conviction or sentence).
- You cannot restrict a detainee's or prisoner's access to his legal representative.
- Interviews and correspondence between detainees or prisoners and their legal representatives are private and confidential.
- Visits by legal representatives must take place out of the hearing of detention officers.

Contact with the family

- The prison authorities must do what they can to protect the links between detainees, prisoners and their families.
- It is important that detainees and prisoners are kept as near to their homes as possible.

Correspondence and Telephone Calls

- You must allow detainees and prisoners to send and receive correspondence.
- You must also allow them to make and receive telephone calls where circumstances permit.
- Any restrictions on correspondence and telephone calls need to be justified as strictly necessary in each case.

Benefits to staff

- Good links between detainees or prisoners and their families are beneficial to staff.
- Detainees and prisoners who are able to maintain stable relationships with their families are more likely to remain calm inside prison.

Section 6 - Complaints procedure

Detainees and prisoners who feel that their rights have been violated are entitled to make a complaint.

Information about the system

- You must give clear information to detainees and prisoners about the method of making a complaint when they first come into prison.
- You must give this information orally to detainees and prisoners who have difficulty with reading and where they do not speak the national language, it must be translated.
- You must also display this information clearly in the areas where detainees and prisoners live and work.

Submitting a complaint

- Detainees and prisoners must be able to submit a complaint without fear of reprisals.
- You must also allow someone acting on behalf of the detainee or prisoner to submit a complaint for him.
- Detainees and prisoners should have an opportunity each day to submit requests and complaints to the director of the detention centre or his representative.

Response to complaints

- All requests and complaints must be dealt with as quickly as possible and investigated where appropriate.
- An appropriate response must be given to the detainee or prisoner as quickly as possible.

Right to complain to an independent body

- The detainee or prisoner should be permitted to see and complain to the Ministry for Human Rights monitors and/or the Public Prosecutor.
- All detainees and prisoners should be allowed to see representatives of the Ministry of Human Rights in private during their weekly visits and/or the Public Prosecutor.
- You must also allow them to contact the Ministry by letter or telephone.
- The prisoners'/detainees' requests to see these visitors and their visits must be recorded.

Section 7 - Disciplinary matters

Disciplinary offences

- The rule of law applies in all prisons and detention centres.
- If you think that an incident appears to be a breach of criminal law you must report it to the investigative judge.
- Where authorities from outside the prison investigate offences they must follow the same procedures that they use outside the prison.
- Breaches of discipline which are against prison rules must be dealt with in accordance with a set of published procedures.
- The system does not allow unofficial punishments.
- The prohibition against torture, inhuman and degrading treatment applies in prison.

Procedures

- Each detention centre must have a clear set of procedures and regulations which describe:
 - the type of conduct which may be a disciplinary offence
 - the type of punishment which may be used
 - the person or body who is authorised to give the punishment
 - the procedures for investigating alleged breaches of discipline
 - the way in which disciplinary hearings will be conducted
 - the arrangements for appeal to an independent or higher authority
- You must follow these procedures.
- You must ensure that detainees and prisoners know what these rules and regulations are.
- You cannot administer any other punishments outside these procedures.

Investigation

- Allegations of misconduct must be investigated without delay.
- The officer who investigates the incident must not have been involved in the incident.

Observing due process

- You must carry out all investigations and disciplinary hearings according to the proper procedures.
- You must ensure that the hearings and procedure are fair.

The charge

- Any detainee or prisoner who is charged with a disciplinary offence must be told what the charge is and who has made it.
- They must be given sufficient time before any hearing in order to prepare a defence.

The hearing

- The case can only be heard by someone who is authorised by the disciplinary procedures.
- The person conducting the hearing must have received appropriate training and must not have had any prior involvement with the case.
- The detainee or prisoner must be allowed to be present at the hearing. He or she:
 - must be able to hear the evidence as it is presented
 - must have the opportunity to question the person who is presenting the case
 - must have the opportunity to present a defence, including calling witnesses if necessary

Punishments

- If the detainee or prisoner is found guilty of a breach of discipline, any punishment must be in accordance with the published regulations.
- All punishments must be just and proportionate to the offence.
- You must apply punishments consistently and fairly.
- You must not apply any physical punishment or any punishment which is not authorised by the regulations.

Right of Appeal

- Detainees or prisoners found guilty of the charge have the right of appeal to a higher authority.

Section 8 – Security and Use of Force

Basic principles

- The main purpose of detention is to protect society from persons who may present a serious threat to public safety.
- It is also important to protect other detainees, prisoners and staff.

Security classification of detainees

- The level of security for each detainee or prisoner must be based on an assessment of the risk which each one presents.
- The main risks to consider are:
 - the likelihood that the person will try to escape
 - the risk to the community if the detainee does escape
 - the risk to other detainees, prisoners and staff
- Each detainee must be assessed on first admission to decide the appropriate level of security required.
- You must not use a high security classification as a punishment.
- Excessive security and control can be dangerous because they can lead to a sense of injustice.
- This can increase the risk of a breakdown of control and of violent or abusive behaviour.
- It is important to review regularly the security status of convicted prisoners as part of the process of preparing them to return to the community.

Classification of pre-trial detainees

- Section 9 of this booklet deals with the security classification of pre-trial and unconvicted detainees.
- In the case of pre-trial detainees the assessment of risk must also include any potential threat to witnesses.

Instruments of restraint

- Instruments of restraint, such as handcuffs, must only be used when strictly necessary as a precaution against escape during a transfer.
- They must never be applied as a punishment.

Solitary confinement

- Solitary confinement as a form of security classification must be avoided.
- You may only use solitary confinement as a punishment for very short periods and under strict supervision
- The medical officer must visit detainees and prisoners in solitary confinement at least once each day.

Searching detainees and prisoners

- From time to time it may be necessary to search detainees and prisoners.
- You must only carry out body searches when these are strictly necessary.
- You must ensure that the search procedures are appropriate and that you do not humiliate the detainee or prisoner.
- Detainees and prisoners must be searched by staff of the same gender.

Searching visitors

- There shall be a clear set of procedures which define the circumstances under which visitors may be searched and the way in which the search is carried out.
- You must always remember that visitors are not detainees.
- You must balance the need for security against the right of the visitor to personal privacy.
- When searching professional visitors, such as legal representatives, you must also respect the right to professional confidential access. This means for example that the lawyers' papers are confidential and must not be read or confiscated during a search.

Searching staff

- It is important to establish appropriate procedures for searching staff.
- These procedures can protect staff because they make it less likely that detainees or prisoners can put staff under pressure to bring banned items into the detention centre.

The use of force

- The use of force must be the last resort in controlling detainees or prisoners if good order breaks down.
- In order to protect detainees or prisoners against abusive treatment there must be a clear set of procedures which define:
 - the circumstances under which force may be used
 - the authorised control methods
 - the member of staff who is responsible for authorising the use of force
- All staff shall receive appropriate training in the use of force.

The use of firearms

- Firearms must only be used when there is a **clear** and **immediate** threat to life.
- It is not permissible to use firearms solely to prevent an escape unless there is also a clear threat to life.
- The UN *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* describe the very limited circumstances in which firearms may be used.

The use of detainees or prisoners in maintaining control

- You must never use detainees to control other detainees or place them in a position of authority over other detainees.

Section 9 – Pre-trial and unsentenced detainees

Basic principles

- Many detainees have not yet been tried or convicted.
- They are not being held in detention as a punishment.
- International regulations make a number of rules which protect their special status.
- Detainees who have not yet been convicted must always be treated as innocent.

Authorised detention

- There should be designated officers in the centre who oversee the remand process.
- Detention officers provide a very important protection against unauthorised detention.
- You must not admit anyone into detention without a valid judicial order.
- You must not permit the release of a detainee without a valid judicial order.

Monitoring pre-trial detention

- Many detainees are under investigation or awaiting trial.
- You must monitor the pre-trial process for each detainee.
- You must coordinate with the appropriate police, prosecution and court authorities to ensure that detainees are produced promptly for any valid appearance in court or with the judicial authorities.
- If the period of pre-trial detention is subject to specific time limits you must monitor those arrangements and ensure that detainees are not held beyond the authorised date.

Legal advice

- All pre-trial detainees are entitled to proper legal representation.
- This is especially important when people are first admitted to detention.
- You must not obstruct a detainee's access to legal representation.
- All communication between detainees and their legal representatives is confidential. This applies to visits, letters and telephone calls. Further detail is given in Section 5.

Conditions of detention

- All detainees are entitled to decent, humane living conditions.
- You must ensure that the living conditions are appropriate to good health and hygiene and that the conditions do not make the detainees' health worse.
- The conditions of detention are dealt with fully in Section 3.

Security

- All unconvicted detainees should be held in conditions which meet their individual security needs.

- Some detainees will have been charged with very serious crimes and may need to be kept in high security conditions.
- Detainees charged with relatively minor crimes must not be kept in high security conditions unless their individual circumstances justify it.

Activities

- Pre-trial and unconvicted detainees cannot be forced to work. They should be given the opportunity to do so if they wish.
- You must allow them sufficient time out of cell in the company of other prisoners in order to maintain good mental and physical health.
- All detainees should have access to a range of activities which allow them to exercise.
- They should also have access to the open air for a significant part of each day (minimum one hour per day).

Ongoing investigation

- Investigating officers may only speak to detainees if they can show you a judicial order which refers specifically to the individual concerned .
- Detainees have the right to refuse to speak to investigating officers if their legal representative is not present.

Section 10 – Vulnerable groups

Basic principles

- Most detainees and prisoners are adult males.
- Some other groups of detainees have different needs. They require special attention.
 - women
 - children and young persons
 - the elderly, mentally ill and infirm
 - people of different nationalities or cultural groups

1. Women detainees

- The situation of women detainees and prisoners is usually very different from that of men.
- The effects of detention on their lives may be much greater.

Supervision

- Women detainees and prisoners must always be kept in completely separate accommodation from men. They must be supervised by women staff.
- Male detention officers must never be in sole charge of women prisoners or detainees. A female member of staff must always be present.

Family links

- Family links are especially important.
- Women detainees and prisoners who are mothers must be given every opportunity to maintain links with their children.
- Special attention must be given to the needs of women with small children.
- The welfare of the children must always be considered of great importance.

Pregnancy and healthcare

- If pregnant women are held in detention they must have access to civilian hospitals for childbirth.
- The child's place of birth must not be recorded as the detention centre.
- Women detainees and prisoners have specific healthcare needs. These must be recognised and attended to.
- Wherever possible women detainees should be treated by women doctors and nurses.
- The detention centre must also provide necessary personal hygiene materials.

2. Juvenile and Young Detainees

- There are special rules for the treatment of children and juveniles in detention.
- The most important are:
 - UN Convention on the Rights of the Child
 - UN Standard Minimum Rules for the Administration of Juvenile Justice
 - UN Rules for the Protection of Juveniles Deprived of Their Liberty
- These state that detention should be used as a last resort and for the shortest possible time

Accommodation and supervision

- Juveniles and young people are vulnerable to abuse by older detainees and prisoners.
- If it is necessary to detain juveniles they must always be kept in separate accommodation from adults.
- Detention officers who work with young people must be given appropriate training for this work.

Welfare and education

- Young persons have specific welfare, educational and health needs.
- The activities and facilities available to them in detention must meet those special needs.
- Young people must be able to carry out activities which will help their continuing development.
- The authorities responsible for juvenile detainees must establish and maintain links with the authorities responsible for the education, welfare and health of young people in the outside community.

3. Other groups

- The authorities responsible for places of detention must also give particular attention to the needs of other specific groups, especially those who are old, infirm, mentally ill or from minority groups.
- The detention centre must allow foreign nationals to contact representatives of their own government for example consular or diplomatic representatives.

Section 11 – Monitoring and inspection

Basic principles

- Under international law detention centres should be visited regularly by qualified and experienced persons who do not work for the prison authorities.
- Prison authorities will also have their own separate arrangements to inspect detention centres.
- All detainees and prisoners have the right to communicate freely and in private with these official visitors.
- These interviews may take place within sight of detention officers but they must not be within hearing.

Ministry of Human Rights

- Staff from the Ministry of Human Rights visit each place of detention at least once each week.
- They should be given access to all prisoners and detainees in order to hear their complaints. They may then raise these complaints with the Prison Governor or other authorities.

Public Prosecutors

- Public Prosecutors have a responsibility to monitor detainees and prisoners and the progression of their court cases.
- They make regular visits to detention centres and prisons.
- They have a right of access to all prisoners and detainees.

Other agencies

- In some countries representatives of the local community and of international organisations, such as the International Committee of the Red Cross, are allowed to visit places of detention in order to monitor the conditions of detention and the treatment of detainees and prisoners.

Benefit to staff

- A proper system of external scrutiny is essential to ensure that the treatment of prisoners and detainees is in accordance with the regulations.
- It is of benefit to staff as well because it can be a protection against false allegations of mistreatment.