

## SURVEYING SUPPORTING OF THE TORTURE VICTIMS IN IRAQ'S KURDISTAN AND INTERNATIONAL DISCUSSIONS

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**Abstract:** One of the most achievements of the international support in the form of the human rights is the support of torture victims. The international laws achievements have paved the way for the support ruling of the torture victims. Today, the resale of torture right is counted as the indispensable right which is liable to be observed meticulously. Hence, supporting the torture victims is of absolute aspect. Also, the banning of torture and support of the torture victims in the international law implies the traditional basis and is regarded as the ruling rights of the international law. Therefore, the aim of the present study is to examine the role of international institutions in supporting the torture victims, the particular case being the Iraqi Kurds. The study is descriptive-survey in terms of the design and the data were collected through the library centers. The results indicated that the international communities as well as the institutes and the states have considered specific rules for supporting the victims of tortures. In addition, the United Nations and the international human rights have condemned the Iraq government for he attacks and tortures of Iraqi Kurds. The recommendations have been taken into consideration in an attempt to support their rights.

Despite the serious attempts for excluding the torture, such a non-human act is common in most of the countries. However, the contemporary international law considers the non-torture law and support of the torture victims as the leading rules. Furthermore, the torture is considered as the international crimes and its offenders should be prosecuted and condemned. Through addressing the quality of emerging the impeding of torture and supporting the torture victims, the present study elaborated o the role of the international institutes in supporting the torture victims.

**Keywords:** Supporting the torture victims, Iraqi Kurds, international institutes, torture specific reporter, human rights.

### INTRODUCTION

Justice and freedom are the overlap terms existed in the communications of human and two key terms in the discussion of humanity, based on this notion, one can say that the humanity of human kind is dependent on the faith and observing the justice which are the building block of one another. Hence, the discussion of justice and freedom root in a long history of human thoughts. The human philosophers have examined these two notions regarding the fact that observing the justice and freedom for all people should be addressed without the lingual or ethical prejudice. Hence, one can consider the justice as the equal right for the human kind. In this regard, the Iraqi Kurds have experienced many tortures to achieve it. Based on the notions mentioned previously, one can demonstrate that the Iraqi Kurds have tolerated many of the gains and tortures throughout the history due to the mismatch between the

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ethical beliefs and the Iraq government attitudes. In this sense, the Iraqi Kurds have started to condemn the behaviors sown by the government, but they have also been tortured by the government itself since the Kurdistan is located in critical territory of the Middle East. Thus, the present probe reviews the tortures on the Iraqi Kurds in recent years and the international laws on banning the torture are addressed.

### **The convention of banning the torture related to the United Nations in supporting the torture victims with an emphases on Iraqi Kurds**

The convention of banning the torture related to the United Nations involves one chapter and 33 articles which were issued on 39/46 resolution on September 10, 1984 in the United Nations which was executed on June 26, 1987. Twenty nine countries were joined to the convention till December 31, 1995. However, the late 1990s was seen with the added 107 countries. Seventeen optional conventions were issued by the United National Public Congress on December 18, 2002 and it was executable only for the states which were in accordance with the contract. This convention has established a committee involving the committee of ten experts which reviews the annual reports addressed by the governments based on article 19 (Mir Mohamad Sadeqi, 1998). In addition, this committee can record the complains issued by the individuals against the government. Only few complains have been recorded in recent years (Mir Mohamad Sadeqi, 2009). Act 1 of the convention for supporting the torture victims states that: torture has to do with any type of act, based on which the physical or psychological pressure is induced on the individual with an aim to obtain the information or making the individual confess. In addition, other acts such as punishing a person for the deed or the probability of doing an action on the part of the third party are taken into consideration s the possible torture. Such an article adds that the pains which are innately lawful are not regarded as the torture. Article 2 and act 2 of the convention do not consider the exceptional status such as the war, inconsistent in terms of the politics and any other emergency status as the justifying. One can mention the inducing of governments to prosecute and condemning the torture committers, establishing required facilities for preparing the complaining on the part of the torture victims, indemnifying the torture victims on the part of the government, non-sense status of the confess for torture and the required instructions for the prison employees for getting acquainted with the banning of torture as the other possible issues (Ashori, 2009). On can conclude that the punished of execution is not considered in the possible domain since the first article has exempted the pain derived from the execution of ensuring the legal cases under the notion of the torture. However, article 16 of the afore-mentioned convention states that the member governments should prevent other criminal acts of the human kind.

It is worth noting that In the introductory sections of the convention for supporting the torture victims (1984), the governments have consensus over the supporting of all people when considering the torture based on the article 55 of the United Nations Charter and article 7 of the international agreement on civil and political rights as well as the declaration issued on December 9, 1975. It is no doubt, then, that the torture has been regarded as the international crime based on the fact that all legal systems and different international contracts perceive it as the crime. The afore-mentioned discussions can be considered as important evidences for supporting the torture victims among Iraqi Kurds; however, the international institutes have not made considerable attempts in this regard.

### **The policy of the European Nations regarding the Iraqi Kurds with respect to the supporting of the torture victims**

The aim of these guidelines is that the United Nations is equipped with a technology through the use of which all communications with the third par countries are established and multidimensional investigations are employed with an aim to remove all the torture. The term torture is used based on the definition offered in article 1 of the congress on the torture and other non-human behaviors. In these guidelines, the misbehavior is defined as all forms of the behaviors or non-human punishments which involve the physical punishment which deprives the individual from the spiritual and physical health. While all concerns on the torture and misbehaves are the main goals, these guidelines assist the enhancing of the policy on human rights included in European Nations for support the torture victims among Iraqi Kurds.

The global declaration of the human rights states that no one is liable to be punished under the notion of the torture of non-human behaviors. No exemption is allowed under the international laws. All the governments are responsible for executing the impeding of torture and misbehavior. Despite the efforts of the international communities, the torture and misbehaviors still exists across the world. The exemption of the punishments for the committers of torture still exist in many countries. Expanding and supporting this law is the first priority of the human rights in European Nations. The European Nations has embarked on preventing and excluding the torture and misbehaviors through the se of the regional criteria and principles having to do with the human rights; however, these efforts should be developed on required from and such an act has not been addressed yet.

### **The global declaration of the human rights and its association with Iraqi Kurds**

According to article 5 of the human rights, no one can be tortured or be considered a showing aggressive behavior. The torture and non-human behaviors are regarded as instances of the worst deeds against the humanity. To identify the torture and

resolutions on removing the inclusion of such a devil deed are the other areas of investigations here. Any type of act which results in the spiritual or physical pain for obtaining the information with respect to the second or third party is regarded as the torture. Much attention has been directed towards the systematic torture based on the international evidences. Such an interstation has been made by the global agreement for supporting the torture victims. In some of the global evidences, the non-human acts such as the insult and humility are regarded as the non-physical torture. The sanction on torture has been confirmed as the global human rights. The declaration of the human rights stats that no one can be placed as the torture body or aggressive punishment. Later, these declarations were excluded rom the sanction level and the governments were enforced to prevent the torture thoroughly. The optional protocol of the United Nations has gone beyond the sanction of the torture and considers the support of the torture victims. One can make use of the result for supporting the torture victims among Iraqi Kurds who were regarded as the source of aggression.

#### **Studying the status of the Iraqi Kurds and the international arguments**

Kurdistan is located among five Middle East countries, namely, Iran, Turkey, Syria, Iraq and Armenia as well as among Plateau, Iran, Saudi Arabia, Anatolia and the Caucasus within the passage of Asia, Europe and Africa. This region is regarded as the living status of the Kurds. This region encompasses the section of Iran North and Northwest, Turkey Southeast and northwest of Iraq and Syria as well as Caucasus west. The Middle East Kurdish territory is the distance between the Mount Ararat and Urmia, Sanadaj, Kermanshah from south, Mandeli, Mosul and island in Iraq from the west, and Qamishli in Syria and Iskenderun in Turkey from the west, and Ararat from the south (Vanbronsen, 2008). The military talent of the Kurdish inhabitant has resulted in the fact that such a territory is regarded as the natural border which involves the emperors. This area is about 409,650 square kilometers that 194 400 km locates in Turkey, 1.2495 million kilometers locates in Iran, 72,000 kilometers of which locates in Iraq and 18300 km is located in Syria. The Kurds are the traditional generations who have lived over three thousand years in north and northeast of Iraq and Northwest of Iran.

#### **Death and displacement of Kurds under in Saddam Hussein territory**

The death and displacement of the Iraqi Kurds root in 1980 when the killing and exile of the Feyli Kurds begin. The Feylis are the families of Shia Kurds who woretortured by Saddam Hussein who knew them as his enemy. Thus, Feyli excluded them to Iran and killed many others. The women and children of this Kurd families were not rescued from the tortures of Saddam. They were either prisoned orexiled to special camps. In fact, when Saddam achieved his power, he emphasized on clearing the Kurds from their Feyli families. The Feylis live in Zagros mountains and near to

Iran's border. In 1980, the security guards of the Saddam Hussein attacked the Feyli families and enforced them to leave their house. In fact, men were separated from the women who were sent to unknown areas. One of the Feyli woman describes the tortures of Saddam Hussein group as sending the people to metal room which was covered by blood. There were women and children, the corpse of whom was filled with blood. Then, the individual was sent to prisons in which hundreds of people lived and many of them were dead due to the severity of injuries. This witness says that she was sent to Iran's border along with other women and children who were dead due to extreme starving on the way (Farahmand, 2006).

### **The death of Barzanis in 1983**

The democrat art of Kurdistan in Iraq led by Masoud Barzani was formed with an aim to struggle with the Saddam Hussein troops. The Ba'athist triggered the Barzani families as their main attack source in line with clearing the generations and making the Iraqi region as Arabs. In the most important operations, Saddam kidnapped eight thousand families of Barzans and no one could rescue from such an attack. It is said that thousands of people were killed violently. This evidence is seen in identifying the mass graves as they are visible today which proves the fact that these people belong to Barzani families. Most of the killed Kurds were less than ten years of age (Akri, Najdat, 2011).

### **The Anfal operations and killing of Kurd families in 1988**

Anfal was the greatest and the extremist operations of Saddam against the Sunnah done through 1986 to 1989 which passed its apex in 1988. This operation was led by Ali Hasan-ol Majid who was then named Ali Shimiaei. The Ba'athist strived to implement the plan for killing the Kurd generation. Hence, the ground attack, bombing, destruction of neighborhoods, mass deportation, firing squads, chemical weapons were not ignored. These oppressions resulted in the devastation of many villages and deteriorated the Kurds culture. Thousands of people were killed throughout these operations based on the statistics offered, but the Kurdish people themselves believe that 182 thousands were killed. Followed by that was the genocide against the Kurds and Sunnah of Iraq north. In 1987, Ali Hasan-ol Majid was assigned as the general secretary of Ba'athist party. Prior to that, he was known as his misfortunes and Saddam understood him as overcoming the resolution for Kurds' issue. The Anfal operations involved eight levels and seven levels were executed in the regions controlled by Kurdistan local nation. The Kurds were captured and sent to the camps where they were separated by the gender. Later, the male and boys were sent to the deserts and were mass graved. It is the reason why experts compare these killings with the ones done by the Nazis. The extremist events occurred through the August 25 to December 6, 1988 after which the fire cease was announced between Iran and Iraq.

**The foreign groups and murder of Kurds**

This operation which was famous as the Kurds' Anfal began in February to September 1988 involving Kirkuk, Diyala, Ninewa and Salah al-Din, led to the devastating of over three thousand villages and that 182 thousands of people were killed by the army and security officers. Such an act is accepted as the genocide in most of the countries and resolution was issued against it. Years ago, the groups explained that the greatest uniformity with the MEKs was formed by the dictator named Saddam Hussein within the genocide operation, which was later named as the Morvarid.

**Chemical bombardment of Halabja**

It is estimated that the Ba'athist have used the chemical weapons for deteriorating 40 Kurdish-living villages and the biggest chemical attack is the one done in Halabja in March 16, 1988. What distinguishes these prior bombardments and the others is the extension of bombs and the number of killed people. In addition, the photographers recorded the evidences of Saddam's crimes over the Sunnah group which negates any ignorance. The excuse of Saadam for the chemical attack to Halabjah was that he understood the people as supportive of Iranian Kurds. In that time, 70 thousands of habitants lived in Halabje. When the chemical bombsen compassed the city, this center was changed to the worst shelter. The repercussion of this attack was the death of 50 thousands of people in a day and most of others were killed as a result of chemical breathing. The long term side effects of these gases led to the blindness of people and experiencing of cancer. In addition, deformed children were born as a result of these chemical attacks. Hasan-ol Majid was named Ali Shimiacei due to this issue (David McDowall, 2004).

**The genocide and torture evidences as the best source for supporting the torture victims in Kurdistan**

Middle East Watch reports on this field that the Anfla project could involve a large portion of Kurdistan areas and fields in which over 200 thousands of Kurds were killed and four thousand schools and churches were devastated. Two million head of cattle were destroyed and unbelievable effects were seen on the nature of Kurdistan. The historian, Dr. Kendal Nezan states that the foundations of life were devastated in Kurdistan and more than 90 percent of the Kurdish village and more than 20 percent of the cities were cleared from the global map. Also, Hilterman describes that when the people were arrested in their villages, who were sent to the regime centers who were then sent to the desserts from the south to the north and vice versa. Most of women were shot or mas graved (William Ochsenwald & Sydeney Fisher, 2004).

### **The replication of tragedy on Iraqi Kurds torture with use of uncommon methods**

When the ISIS took Mosul and attacked Kurdistan territory, the Kurds followed one strategy involving three sections for verity. 1603 soldiers were killed and more than 8000 of them were injured as a result of these efforts. The soldiers and the Security Council led by Masod Barzani played a great role in over whelming the ISIS. In addition to the cases mentioned above, over 900 kids and women were killed and other civilians were murdered. The international communities kept silence over these attacks. In adding, Turkey has attacked parts of Kirkuk and Mosul under the notion of ISIS and 200 people were killed in this sense. In addition, Turkey had attacked Iraq to overwhelm the PKK group which was allowed by the Iraq government. Also, Turkey pursued attacks to Iraq northon 2016 and it seems that the Turkey concerns are not restricted to the Kurds living in his country. Turkey holds deep concerns for the Kurds status in neighborhood countries. The Kurds statues were changed followed by the attack of Saadam to Kuwait and they became independent in Iraq north. Such an act was insulted by Turkey. From Turkey's perspective, Kurds' status were between in Saddam's ruling time. From Turkey's perspective, the operations of PKK are regarded as terrorism. Turkey officials believe that their attacks are impeding and they are not considered as attack-based. In other words, these attacks are done so that the PKK group cannot make plans for attacking Tukey in the future. Turkey devastated six bridges in Kurd-living regions.

### **The international arguments pertinent to the support of torture victims in Kurdistan**

Followed by the war of Persian Gulf and the attack of unions to Iraq and arrestment of Saddam Hussein, he and his band member named Ali Shimiæi were condemned for Kurd's genocide. Two issues are disputable when discussing the Anfal operations; the first one being the use of chemical weapons against the citizens, the second being genocide and crime against the humanity. Since such an act was considered as the genocide in its nature which is defined as the act of exclusion or killing part or whole of the people with the same nation, religion, color and ideology. When Halibja was bombed with other chemical weapons in March 16, 1988, the ruling legal system was the use of weapon based on protocol 1925 of Geneva and convention 1972. The membered countries of the United Arab asked help for the protocol 1925 so as to exempt Iraq from violating the protocol. It was claimed that the banning of chemical weapons use was listed to the international enemies. However, 12 United Nations governments condemned such a bombard. Also, such a horrible action influenced the global and public thoughts which stated that the governments do not make use of the chemical weapons and there is no distinguishing between the local and international enemies. Having confirmed the banning of using chemical weapons in contract-based rights, the international judicial procedure announced the banning

of chemical weapons use in local enemies and name them as traditional rights. One can infer these criminal acts as the genocide since it involves the instances of mass killing or genocide from the international law's perspective. The city court of Hague in Netherlands announced clearly that the Kurds murder in Iraqis the genocide criminal. Also, a number of the political institutes in and out of Iraq recognized the murder of Halibja as the genocide killing which requires that the congress makes efforts to condemn the Anfal operations under the notion of genocide.

### **Legal development of Kurds' autonomy in new constitution of Iraq as the supportive factor**

Despite the security challenge of Kurds in the initial stages of America's attack to Iraq, such a trend was enhanced in line with stabilizing the conditions and stages of governing the Iraq within the constitution. The development of co-ordination dealing with local unity of Kurdistan and Kurdistan democrat party and the effort for attaining the excelled position of power are the metrics of this trend. Undoubtedly, the optimal choice for the Iraq Kurds was the independence in Kurdistan; however, most of the positive and negative metrics in the region led to the fact that the KRGY pursued the goal of the united Iraq. As an example in case, Jalal Talebani states in 2003 that the Kurdistan autonomy is non-feasible, but the Kurds cooperate in collectivism and federative dimensions so as to improve the goal of Kurdish people. In practice, most of the choices were accepted in the constitution. Cases such as the semi-federation of Iraq through the admission of autonomy and Kurdish government in Iraq north, the formality of Kurdish and Arabic languages in Iraq, the resulting right of the Kurds, commitment of Iraq government for considering the use of people of Iraq's oil income with respect to the population rate and preserving the Kurdish military forces for controlling the northern districts.

### **Legal empowering of Kurds in new confirmations of the Iraq overeat with the support of international institutes**

Having determined the constitution of Iraq in 2005, the Kurds were given the legal opportunities which led to the development and empowering of their soft war such as followings:

In the first article, the constituent of Iraq has established the economic, political and social developments through accepting parliamentary, democratic and federal governing resulting in surprising assistance to the promotion of self-confidence

In the second article, Iraq is known as the country with groups, religions and beliefs where the identity of Kurds is recognized.

The fourteenth article emphasizes the discrimination based on the gender and group with respect to the acceptance or rejection of the economic and social issues. Therefore, the Kurds experience non-Arabsociety compared to Arabs.



In the hundred and fourteenth article, the federal government of Kurdistan is recognized.

In hundred and eighteenth article, the information and military helping agent or the Kurdish soldiers maintain their organization.

In hundred and twenty second article, all official, political, cultural different groups are taken into consideration.

In the hundred and twenty third article, any modification of the institution which negate the authority of the regions is dependent on the judicial system of each region; the acceptance of people is said to be the time when such an article offers the veto to the federal officials (Barzegar, 2006). Also, in hundred and sixty sixth article, the government demands the time interval for determining the future of Kirkuk. Therefore, in case Iraq' autonomous government attains the oil resources of Kirkuk, this territory can rescue itself from the financial dependence of Baghdad (Kavianirad, 2008). One can conclude that the Kurds hold the potential to achieve Kurdistan's goals through enjoying talents for influencing the local and international changes.

## CONCLUSION

Having determined The Universal Declaration of Human Rights in 1948, important common target were reflected in his declaration. The international member countries were about to make their efforts for realizing the principals involved. Since the respect and all liberties offered required much more commitments or those governments which wished better enjoying of the facilities, more demand on determining the executional acts were felt. Throughout this time, the United Nations has attempted to predict the recommendations for the internal supervision through determining the international contracts so as to support the torture rights. It is no doubt that he humankind should expect a long way for attaining this goal since the organizations are rooted in cooperation sense and the equity of governments impede the comprehensive and overall supervision on the commitment of governments. Article 7 and act 2 of the internarial Charter states that none of the principles in this charter allows the United Nations to intervene in this issue related to the national interest of the country. It seems that the quality *f* behaving of each government is taken into account as the national interest. The United Nations has shown that there is no restriction for violating the human rights. There is a common point in all evidences being issued for the internal communities. These evidences have censuses over the fact that the human holds the liberties which should be supported clearly and the governments are responsible or make decision for realizing the rights. However, since the liberties which are restricted by the politicians in recent years, the international institutes have tended to have determined and specific contracts such as the impeding of torture and supporting the torture victims along with other violent and non-human behaviors which was confirmed in December 10, 1984 in the United Nations.

Also, the rule for supporting the torture victims had been accepted by most of the countries membered in the United Nations. Such a rule has been admitted in the intentional custom. Most of the members of the United Nations have regarded the banning of torture as illegal. Hence, torture is a global crime for which the ICC is liable to offer its justice. In addition, one can observe the domestic wars in Iraq which involves different groups and Kurds are among them who have been under severe tortures for many years and these people have endeavored to attain the autonomy. These people have been attacked by Turkey troops several times and most of the civilians and citizens have been murdered or tortured. There are celebrities for revitalizing the memory of people dead in different occasion such as Saddam's chemical attack to Iraq's Kurdistan and the homelessness of thousands of Iraqi people as well as Turkey's attacks in Saddam's time and the recent attacks to Iraq north due to the ISIs attack. These examples can be good indicators of the tortures on Kurds which have not been studied on the international community's level. Now, the Kurdish people of Iraq have tended to hold the referendum and autonomy to release themselves from the torture and attaining the freedom, but this country is continuously threatened by the neighborhood countries. Since Iraq is located in the autonomous government in the oil region (ousil and Kirkul), his district is threatened and has put its upcoming conditions into higher-level risks which can be regarded as the initial remarks for attacks by the Turkey government or the murdering of thousands of women and kids. It is necessary that the international institutes pave the way for devising plans for deviating the attacks on chemical bombardment of Kurdistan. One can demonstrate that Kurds are non-governed groups who are connected to Iran, Iraq, Syria and Turkey. The issue of Kurds has always been the leverage which is used by these governments. The issue of Kurds is of great importance of the Turkey government. It is worth mentioning that the Turkey fundamentals have promised to establish an independent government for the Kurds, but this has not been met yet. May changes have been made so far. Turkey has not finalized the issue of Kurds and is concerned with it. One of the reasons in his regard is that turkey feels much more sensitivity with respect to this issue. The neighborhood governments of Turkey have leveraged this country. As an example in case, prior to the fulfillment of Iran's Islamic Revolution, the Shah regime was in close touch with the Kurdish governors. There was aconsensus among the countries as not permitting Kurds to be dependent. In case no strategic view is given and the tortures on Iraqi Kurds are held, then unpredictable situations will be observed since the torture is forbidden based on the resources of the international juridical law and it is regarded as the crime against humanity. In most of the contract and international conventions, forbidding of torture has been absolutely accepted. The example are act 2 of the torture forbidding, act 4 of the civil and political rights, and act 3 of joint conventions in Geneva which represent the torture as the forbidden

act in an absolute way. In addition, the rules for supporting the torture victims are regarded as imperative and that the damage resulted from not supporting the torture victims leads to the formation of political and social problems.

The United Nations confirmed an optional protocol to the convention of supporting the torture victims in December 2002. The goal was to establish the regular observations by the independent international committees with respect to the places which held the deprived people so as to prevent further tortures. A secondary committee will be established so as to proceed on the determined tasks which is the reflection of establishing international institutes rules in support of torture victims.

To remove the torture, as indicated by the international criminal justice, the international support is of great importance. In fact, the outer factor is of great importance in proceeding the exclusion of torture and support of the torture victims. Sometimes, the national mechanisms for preserving the rights of human do not suffice. In some cases, it is the force of the outer sources which lead the governors towards attaining the required goals. The main task is the judicial prevention with the most people who are the actors of torture. Thus, the efforts of the national courts for prosecuting and condemning the torturers are of great importance. More activity shown by these courts will result in lower levels of confidence for the actors of torture. However, not many countries make judicial behaviors in this regard. As it was demonstrated by the special reporter, one of the targets of the convention on supporting the torture victim is that the torture is forbidden in national legal systems and it takes the form of crime. In order for the actors of torture to be condemned in a qualified way, the convention considered varied opportunities and choices. In addition, to prevent the inhabitant behavior of torturers in other countries, the convention goes beyond the land qualification and assigns the global qualification principle as the international commitment to all governments. The governments have shown reluctance behavior for committing to their promises when it comes to considering the global qualification. Therefore, the reporter calls for the members of the convention to embark on their tasks in implanting the global qualification and the Ba'athist regime governors have never been condemned with respect to the tortures of Iraqi Kurds.

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