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Iraqi Justice System Is Faulted

By [CAMPBELL ROBERTSON](#)

BAGHDAD — [Iraq's](#) central criminal court, the country's chief judicial institution, has fallen short of international and Iraqi constitutional standards of due process and has failed to provide "basic assurances of fairness," according to [a report released Monday by Human Rights Watch](#).

The report portrays a system under which defendants are often abused in custody and held for months or even years before being referred to a judge. When cases are heard, the defendants are often left without adequate defense counsel to answer charges, which are frequently based on secret informants, coerced confessions and flimsy evidence, the report found. Juveniles are often held with adults, it found, despite an Iraqi law requiring they be held separately.

The court was created in 2003 by the United States-led Coalition Provisional Authority to hear cases of serious offenses, including terrorism. One factor in the court's systemic failures is an overwhelming caseload, a result in part of widespread arrests in 2007 related to the surge operations in Baghdad, the report said.

The court also hears cases of detainees in American custody that are referred to an Iraqi judge. The report criticizes the coalition for referring only a small fraction of the thousands detained. But the backlog hampering the court is expected to worsen after Jan. 1, when, under the Iraqi-American security agreement, the Americans begin releasing or transferring all detainees into Iraqi custody.

At that point, detainees will be turned over to the Iraqi authorities within 24 hours of being arrested, and their cases will be governed by Iraqi criminal law.

"I think the new caseload will probably make it even worse," said Joseph Logan, a researcher in the Middle East and North Africa division for Human Rights Watch and the main author of the report. "A dramatic increase in the number of cases funneled into the Iraqi system is going to create a strain at every point."

Human Rights Watch investigators were allowed to attend a series of investigative hearings and trial sessions at two branches of the court in Baghdad in May; they were also allowed to examine court documents and to interview detainees, judges and lawyers.

At the hearings attended by Human Rights Watch, judges often dismissed cases for failing to meet basic standards of proof. While judges recognize the shortcomings, the high number of dismissed cases — often after a defendant has been in detention for months — only underscores how broken the system is, Mr. Logan said.

Iraqi law is still heavily focused on confession and testimony. Forensic evidence is rare and, because of the security situation, testimony often comes from secret informants. Though there are opportunities to

challenge the reliance on secret testimony, the report cites a number of cases in which court-appointed defense lawyers either failed to appear or said nothing during proceedings.

A defense lawyer who often works at the central criminal court in Baghdad said many cases were assigned with little or no time for preparation.

“They call the lawyer as the trial is beginning or about to begin and tell him, ‘This is the case and you are the defense lawyer,’ ” the lawyer, Muhammad al-Faisal, said. “In such a situation, the lawyer does not have enough time to prepare the case or study it. The court does not give either the lawyers nor the accused their rights in this matter.”

Mr. Faisal added that he often came across defendants who reported being abused while in detention. “There are too many violations,” he said.

The criminal court had no immediate comment on the report.

In western Baghdad on Monday, eight Iraqi police officers were killed after a suicide bomber crashed his vehicle into a police checkpoint, the American military said. The attack wounded eight other police officers and two Iraqi Army soldiers at the checkpoint, in the Nasir Was Salam neighborhood, the military said in a statement.

Abeer Mohammed and Timothy Williams contributed reporting.

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