

christian peacemaker teams

Badinan Detainees Report

Pertaining to the events of January-March 2019

Published May 2020

Abstract

In January 2019 a series of demonstrations took place in the Badinan region of Iraqi Kurdistan.

The Kurdistan Regional Government (KRG) security forces arrested 113 people in relation to the demonstrations held in Shiladze and Duhok (within the Badinan region). Eighty-two of these people were released within 24 hours.

This *Badinan Detainees' Report* documents the arrest, imprisonment and release of the people who were detained for more than 6 days.

Contents

Survey Methodology	2
Timeline of the January 2019 Events, Leading to the Imprisonment of the Badinan Detainees	3
Arrests, Formal Charges and Perceived Reason for Arrest	4
Legal Proceedings	6
Release	7
Conditions in Prison: Torture, Threats, Coercion	8
Threats and Coercion	9
Post Imprisonment Threats and Monitoring	9
Conclusion	11

Survey Methodology

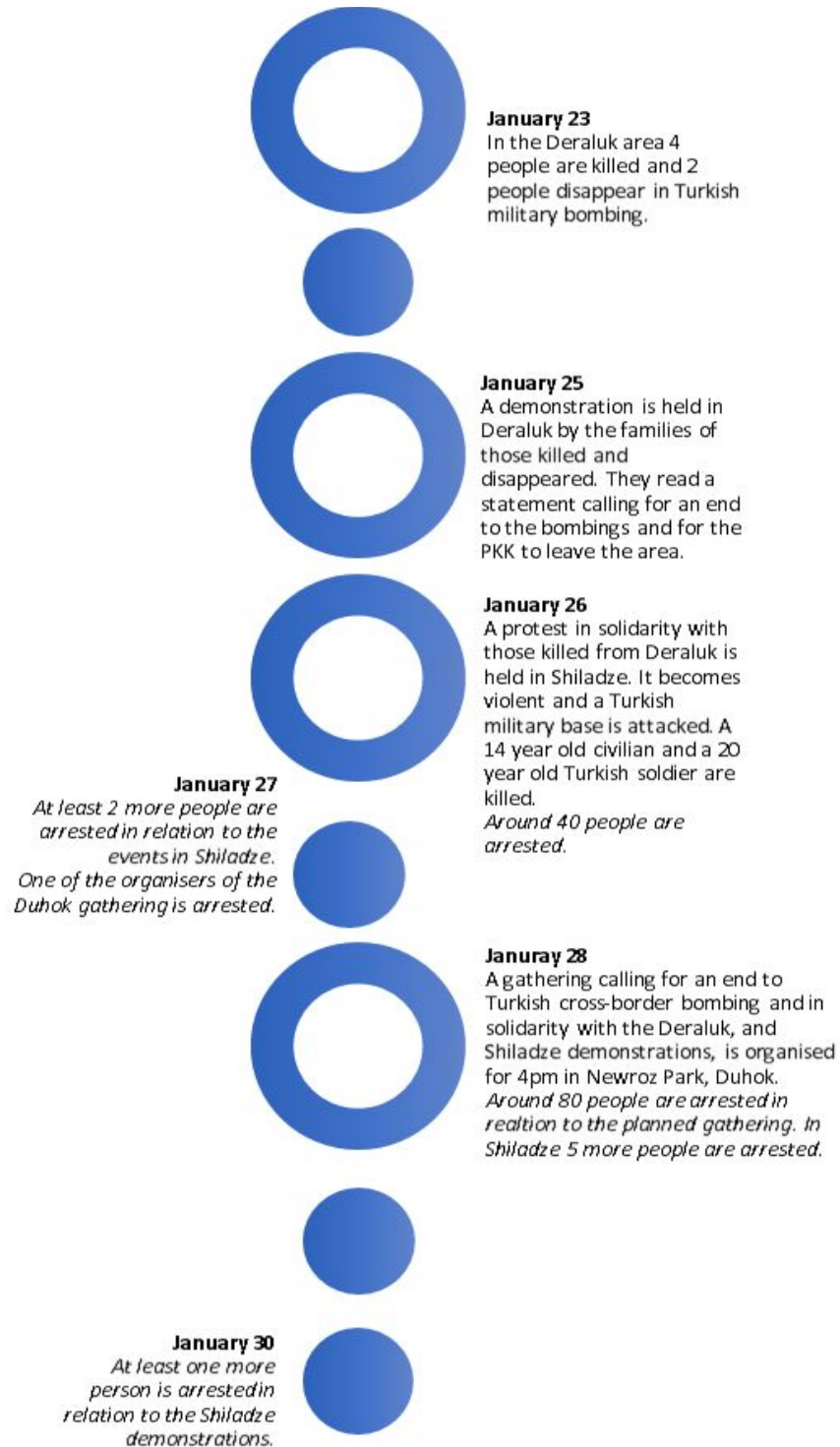
This report pertains to the detainees of Shiladze and Duhok separately and highlights their testimonies as well as those of their volunteer lawyers.

All of the interviews with Badinan prisoners were conducted by CPT-IK team members after the prisoners were released.

Fifteen of the thirty-one people detained for over 24 hours were interviewed, as well as two persons who were arrested and then released the same day. Of those fifteen, seven were arrested in relation to the Duhok gathering and eight in relation to the Shiladze demonstration.

Those who were interviewed did so voluntarily, but shared their fears that they would be targeted for speaking out. As such, this report keeps their identities anonymous.

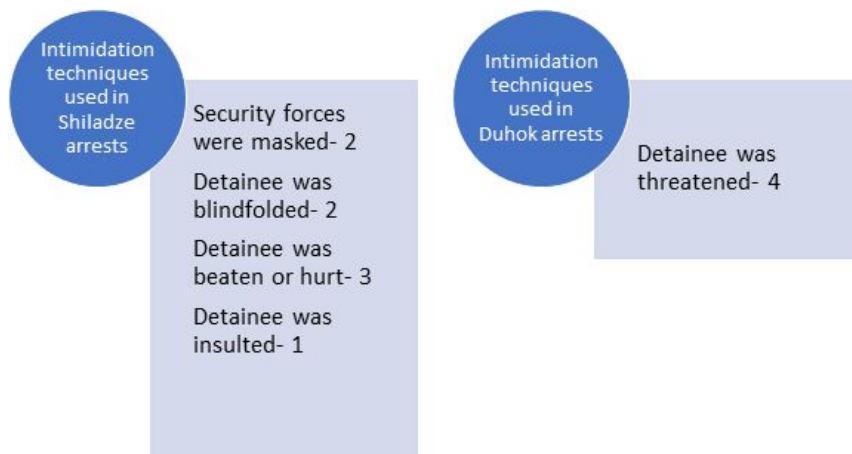
Timeline of the January 2019 Events, Leading to the Imprisonment of the Badinan Detainees



Arrests, Formal Charges and Perceived Reason for Arrest

According to the volunteer lawyers, 113 people were arrested following the events in January, all without a court order and without a warrant. In Shiladze, approximately 40 people were arrested, most of whom were released after a few days. In relation to the gathering in Duhok, approximately 80 people were arrested. None of the families were informed of their arrest by police or Asaish¹ and for many days were unaware of where detainees were being held or of their condition. Of the 15 people interviewed for this report, all seven of those arrested in relation to Duhok, and three of the eight arrested in Shiladze, believed they were detained for reasons other than the demonstration, such as their political affiliations or past activities in civil society or criticisms of the Kurdistan Regional Government (KRG).

After the arrests, with no communication from KRG authorities, there were rumors being spread among people in the district that the detainees might be handed over to the Turkish government, and that they were being tortured and disappeared. Several families contacted NGOs, desperate to find out where the detainees were being held and information about them.



“I knew it was a legal demonstration because politicians and other legal people were there, this is why I took part.”

“After the demonstration and overrunning of the Turkish base, the authorities opened fire on the demonstrators, arrested people indiscriminately, and focused on insurgent voices, activists and journalists.”

Detainees arrested after the Shiladze demonstration

¹ The Asaish is the Iraqi Kurdistan security and intelligence forces, operating closely with the political parties. In the Erbil and Duhok governorates the Asaish operates under the KDP (Kurdistan Democratic Party) and in Sulaimani they operate under the PUK (Patriotic Union of Kurdistan).

“We saw the park blocked by Asaish so we went to a tea shop. Asaish in plain clothes approached us and asked for our IDs, because they knew we didn’t have any, and they pushed us into a car. Before we got to the Asaish headquarters they stopped in front of KDP headquarters and someone came out and took our phones.”

“They only took seven of us to Asaish [headquarters], then put us in Zerka [prison]. They released everyone who belonged to political parties.”

“They arrested us to satisfy Turkey, and to scare other civil activists, but after 21 days they let us go because they knew we had done nothing.”

“I arrived at the park and the Asaish were there so I decided to leave. I tried to go get a sandwich and was talking to some friends on the phone. Asaish called my name and came up to me. He knew me from when I had monitored the election and complained about corruption. He threatened to kill me at the time, and now here he is calling out my name.”

Detainees arrested in relation to Duhok gathering

“The next night at midnight I was trying to sleep, already in my pyjamas, when the Asaish knocked on my door and arrested me in front of my family. There was no torture, but they insulted me in the car. They asked me lots of strange questions as though they were trying to find something to accuse me of.”

“Masked Asaish carrying weapons came to my house, tied my hands and blindfolded me. We changed cars three times and then that night got to Duhok where they put me into solitary confinement. I asked if there was a court order to imprison me and they had none.”

“Three members of PUK and KDP were released after a few hours with no problems.”

“I was arrested in front of my family but then they didn’t know where I had been taken for one week. The arrest was so violent that my family was very worried about my safety.”

Detainees arrested in relation to Shiladze demonstration

Legal Proceedings

Initially all detainees were charged under the Iraqi Penal Code Law 111 of 1969, Article 156, which states,

Any person who willfully commits an act with intent to violate the independence of the country or its unity or the security of its territory and that act, by its nature, leads to such violation is punishable by life imprisonment [death].²

This charge used to carry a death sentence, and many detainees were made to believe during interrogations that it still did.

The lawyers working on the case argue that this was a misuse of the Article which pertains to external attacks to national security. For all of the Shiladze detainees (19 people) they were able to get this charge dismissed and replaced with the Kurdistan Parliament Legislation, Law No. 11 of 2010.³ Furthermore, through the efforts of the volunteer lawyers group,⁴ six of the Duhok detainees' cases were closed. However, the remaining six Duhok detainees are still facing court charges under Article 156, and are still unable to travel outside of Kurdistan due to these charges.

It took 5-10 days for the lawyers to be officially allowed to defend the detainees. Despite obtaining the right to defend the detainees, six detainees were unable to meet with lawyers during their entire imprisonment.

According to the lawyers, all the interrogations were conducted behind closed doors by members of Asaish, with no lawyer present. There were several other violations of law in the treatment of the detainees, from their arrest to conditions in prison and their release.

“They rejected our bail attempts, even though this law [article 156] allows for it”

“I only saw the lawyer, I was not allowed to speak to him”

“They exploit all the laws, including the ones from the Saddam era, and use them against their own citizens”

Detainees in relation to Duhok gathering

² Iraqi Penal Code, Law 111 of 1969, July, available at: www.refworld.org/docid/452524304.html . (“The death penalty was suspended by operation of CPA Order 7 Section 3(1) and substituted with life imprisonment. It was re-introduced by Decree 3 of 2004 for a limited number of crimes not including this one”).

³ Kurdistan Parliament Legislation, Law 11 of 2010, *An Act for the Organisation of Demonstrations in the Kurdistan Region- Iraq*, Available in Kurdish at: <http://www.perleman.org/files/articles/191210122204.pdf>.

⁴ All detainees were eventually represented by a group of volunteer lawyers led by Khatab Omer. Because of their participation in this case, political authorities have obstructed the volunteer lawyers from obtaining new cases.

Release

The detainees interviewed raised concerns over the lack of due process being followed. They remain unsure of the reasons for their eventual release and are apprehensive about any further steps the courts may take against them.

By March 11 2019 all the detainees had been released from prison, many with their cases still pending. At this time six of the cases remain open, without proposed trial dates.

“Then they said they would release me because of my political connections.”

“I am not sure about the conditions of my release. I was told that my release was for Newroz, and should not be attributed to the efforts of my lawyers or any NGOs.”

“The judge said, we are releasing you because there is a lot of pressure and public opinion in your favour. They wanted me to promise not to participate in any more demonstrations.”

Detainees arrested in relation to Duhok gathering

Conditions in Prison: Torture, Threats, Coercion

The conditions in prison differed among detainees, who were held in different locations, including the Asaish and municipal prisons, and two who were held in solitary confinement.

During the course of their imprisonment two detainees from Shiladze and three from Duhok began a four day hunger strike to protest being arrested without a judicial warrant or court order.

“I was held in a solitary confinement cell with two ISIS suspects. It was cold, I had one blanket.”

“They insulted us and put us in prison with ISIS members and other criminals.”

“Solitary confinement was so bad. I asked for more blankets, I was so cold. I had two blankets under me and two over me. There was a fan that was constantly on and was slowly destroying my mind. They claimed it was protective solitary confinement from ISIS fighters... I wished I was tortured rather than in solitary confinement.”

“During the interrogation they forced me to put my head down, they kicked me and insulted us.”

Detainees arrested in relation to Duhok gathering

“During my interrogation they kicked me in the back and in my stomach.”

Detainees arrested in relation to Shiladze Demonstration

Threats and Coercion

Threats were frequently made during interrogation of the detainees, including threats to their life and livelihood. Coercion was also used by interrogators against detainees in an effort to try to force them to confess to something they hadn't done, promise to cease all civil activism, or to join the ruling political party. Relatives were forced to put pressure on detainees to abandon their civil activism. They visited them in prison and pleaded with them to stop their activities for the sake of their family's welfare.

"We were threatened that they [Asaish] have many of our documents, and could release them. It is like blackmail. We think this is to limit our options and to stop us engaging in further activities."

"The Asaish changed my Facebook account password, so that I can no longer access it."

"They have taken all my ID. Now I cannot move around freely."

"My computer was taken to Asaish by a relative and now a story I was writing is being used in an investigation against me. I can't work any more."

"The person who ran the investigation has called me 4 times since my release and told me don't do such and such, don't be friends with so and so."

"They used my relatives to try and force me to sign a paper promising to stop my activities."

Detainees arrested in relation to the Duhok gathering

"The government is not protecting my life, They have threatened to kill me."

"They released me on bail. Now they monitor our Facebook and call us."

"It has been one month and one day since they released me and I have been called and received threats every day since."

"They took my residency papers and have not given them back. I have a child in hospital, I cannot even visit him because I do not have papers."

Detainees arrested in relation to the Shiladze demonstration

Post Imprisonment Threats and Monitoring

In the course of their release, most of the detainees were threatened by the Asaish who informed them that they could easily be killed, blocked from working, or arrested again. The Asaish put pressure on the detainee's families and exploited other social ties to influence the detainees to cease all their political activism. Some of the detainees were told to visit the ruling political party's branch in their areas. Other detainees were told they should relocate if they promote or join any political party other than the KDP⁵ in the area, because they will have lost the privilege to live in Shiladze. The Asaish were monitoring the detainees when CPT spoke with them in May 2019. This included both surveillance of them at work and home, and monitoring of their social media and communications.

"The head of the Asaish told me this is the last time that we are going to arrest you, the next time we will kill you."

"They told me, 'If you promise to stop your activities we will not send you to court we will just release you.'"

"They kept me in a dark room for the interrogation and covered my eyes. They told me to give up, to join KDP or leave the Duhok region. They tried to get me to confess to getting people to take over the base in Shiladze."

"Asaish told me that if I didn't stop [civil society activities] they would kill me and no organisation could do anything about it."

"Two days after my release, my business partner and friend was detained by the Parastin [KDP intelligence agency]. He was kicked and put into a toilet, and told that he must discontinue his business relationship with me."

Detainees arrested in relation to Duhok gathering

"They tried to get me to sign a paper confessing to things I didn't do. During the interrogation they threatened, 'Another time we will meet you in a different way.' Meaning they will hurt me more. I am very worried for my life."

"They threatened to not pay me [in my job], I have a disability there is not much else I can do."

Detainees arrested in relation to Shiladze demonstration.

⁵ The Kurdistan Democratic Party (KDP) is the ruling party of the Duhok region where Shiladze is located, as well as of the Erbil region.

Conclusion

The actions taken by the security forces in the case of the Badinan detainees is an incursion against civil liberties. This report does not pertain to the reasons for the arrests, but the violation of human rights in how the arrest, interrogation, imprisonment, release and monitoring of those detained have been carried out.

It is a violation of Iraq and Iraqi Kurdistan's commitment to the *International Covenant on Civil and Political Rights*, which Iraq became party to in 1976.⁶ This failure is observed in Article 9 of the covenant which states that persons shall not be arbitrarily arrested, they shall be informed at the time of the reasons for their arrest, and they shall be brought promptly before a judge. Furthermore, it is observed in Article 21, which enshrines the right to peaceful assembly, which was denied in the premature arrest of civilians before the Duhok gathering. These rights to liberty, humane treatment and fair trial are likewise preserved in the *International Bill of Human Rights*, which Iraq voted in favour of in 1948.⁷

Within Iraqi and Iraqi Kurdistan law these rights are consolidated. The use of physical or psychological torture, to obtain confessions is forbidden⁸ unless corroborated by other evidence.⁹ And according to the Criminal Procedure Code,¹⁰ all persons accused of a crime have the right to see an investigative judge within 24 hours of arrest, the right to remain silent, the right to not answer questions, and the right to be represented by a lawyer throughout the investigation and judicial process. These rights are essential in ensuring a free and healthy democracy.

Many of those interviewed expressed concerns that they were targeted for arrest due to their previous activities in civil society, including independent journalism. An active and engaged civil society is an important asset to a free and democratic society that needs to be protected, not threatened and coerced.

The actions of authorities in the case of the Badinan detainees raises concerns of human rights violations that undermine the democratic process.

The CPT Iraqi Kurdistan team calls on the government and security forces of Iraq and Iraqi Kurdistan to protect human rights and civil liberties, in order to build a healthy and just society.

⁶ treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf

⁷ www.ohchr.org/Documents/Publications/Compilation1.1en.pdf

⁸ Iraqi Penal Code, No. 111 of 1971, Article 333 and the Criminal Procedure Code, No. 23 of 1971, Article 127 & 218.

⁹ Iraqi Kurdistan Anti-Terrorism Law No. 3 of 2006, Article 13.

¹⁰ Criminal Procedure Code No.23 of 1971, Article 123 (b), 126 (b), and Article 57.