

# Report on Human Rights in Iraq

## January to June 2017



“©UNMAS”

Female student between classes at Mosul University in East Mosul, Iraq. This university recently reopened after being cleared of explosives by UNMAS implementing partners.

About 900 students are currently studying at the university, but much of it is destroyed and needs to be rebuilt or have equipment replaced. (UNMAS/Cengiz Yar)



United Nations Assistance Mission  
for Iraq (UNAMI)

بعثة الأمم المتحدة لمساعدة  
العراق (يونامي)

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United Nations  
Human Rights

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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## Recommendations

### Recommendations for the Government of Iraq

#### *Protection of Civilians*

- Investigate effectively, promptly, thoroughly, and impartially all allegations of violations or abuses of international human rights law and violations of international humanitarian law by all parties to the conflict and, where appropriate, prosecute those who are found responsible for such acts. Ensure that the findings of such investigations are made public.
- Ensure that arrests and detention of individuals in connection with the ongoing conflict are carried out on legal grounds only and supported by credible and sufficient evidence, and that all due process rights and fair trial rights guaranteed by the Constitution of Iraq and international law are fully respected.
- Ensure the protection of mass graves, along with appropriate care and measures to excavate such sites and exhume and identify the mortal remains, and to preserve evidence of crimes committed; including any that may lead to the identification of perpetrators. Conduct independent, public coronial inquiries into each mass grave, to identify the victims, collect evidence of wrongdoing, and fully investigate and determine the circumstances that led to the deaths of the individuals concerned; ensure that family members of victims and missing persons are provided with all available information and adequate and timely financial, material and other assistance.
- Ensure that survivors of human rights violations, particularly of sexual and gender-based violence, receive adequate support, including psycho-social support and medical care.
- Ensure the rights of all victims to an effective remedy, including the right to equal and effective access to justice and adequate, effective, and prompt reparation for the harm suffered.
- Ensure that individuals and families with allegedly ISIL-affiliated relatives are not subjected to threats and forced evictions, which may amount to collective punishment and are in clear contravention of the Constitution of Iraq and international human rights law and international humanitarian law binding on Iraq, including the International Covenant on Civil and Political Rights ratified by Iraq in 1971.
- Ensure that, as soon as practicably possible after liberation of areas from ISIL control, responsibility for law and order is restored to civilian control, and that measures are taken to ensure the human rights of people are protected and basic humanitarian needs of civilians residing in those areas or voluntarily returning are met. Additionally, conduct operations to mark and clear unexploded ordnance from contested areas immediately after retaking the areas from ISIL.
- Introduce amendments to the Iraqi Criminal Law to allow international crimes committed in Iraq to be prosecuted as such in domestic courts..
- Accede to the Rome Statute of the International Criminal Court. As an immediate step, accept the

exercise of the Court's jurisdiction with respect to the specific situation faced by the country, pursuant to Article 12(3) of the Rome Statute.

### *Rule of Law and Administration of Justice*

- Undertake comprehensive criminal justice reforms, including a review of the Iraqi Criminal Code no. 111 of 1969, the Iraqi Criminal Procedures Code no. 23 of 1971, and the Anti-Terrorism Law no. 13 of 2005 to ensure their provisions comply with international human rights law and the Constitution of Iraq, including with regard to rights of due process and fair trial.
- Allocate sufficient resources to training police and investigators on due process and fair trial standards, and on appropriate techniques for investigating crimes, including the gathering of forensic and other evidence.
- Ensure compliance by all State officials and their representatives with Iraq's Constitutional and international legal obligations, including in relation to the full implementation of the Convention against Torture. Ensure that all allegations of torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment) are promptly, thoroughly, impartially and independently investigated, that perpetrators are charged and tried according to law, and that victims are appropriately and adequately compensated, including by providing appropriate medical, social and other assistance.
- Establish an independent oversight body, such as an ombudsman or police disciplinary tribunal, to investigate allegations of abuse of authority or breach of professional standards by police.
- Establish a judicial police service responsible for bringing detainees from police detention to hearings with the investigative magistrate. Also ensure defendants who have been before the investigative magistrate are not returned to police custody and are released on bail or transferred to Ministry of Justice facilities.
- Conduct prompt, independent, impartial and thorough investigations of cases of alleged enforced disappearances.
- Ensure that judges' and lawyers' security and safety are guaranteed.

### *Detention Standards*

- Address concerns raised by UNAMI/OHCHR through its monitoring of detention facilities regarding detention conditions through long-term solutions, and allow UNAMI/OHCHR to conduct confidential interviews with detainees.
- Resume literacy classes and vocational trainings by the Ministry of Education for detainees to fulfil the rehabilitation aspect of imprisonment, and conduct regular courses for detainees to counter extremism and radicalization.

- Resume, with the support of UNAMI/OHCHR, external training for security sector employees including on compliance by prison staff with human rights standards.

### *Death Penalty*

- Declare an immediate moratorium on the use of the death penalty in accordance with United Nations General Assembly resolutions 62/149 (2007), 63/168 (2008), 65/206 (2010) and 67/176 (2012), 69/186 (2014), and 71/187 (2016); review the Iraqi Penal Code Law No. 111 of 1969 and the Criminal Procedure Code Law No. 23 of 1971 with a view to abolishing the death penalty or limiting its potential application to only the most serious crimes; and consider acceding to the Second Optional Protocol to International Covenant on Civil and Political Rights (ICCPR) aimed at abolishing the death penalty.
- Implement international standards that provide safeguards of the rights of those facing the death penalty, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, until the death penalty is abolished in Iraq.
- Establish a special judicial oversight body to monitor trials that may lead to the death penalty to ensure respect for due process and fair trial standards.
- Issue a directive to judges stating that a conviction of an accused person solely on the basis of a confession or evidence obtained under duress, particularly where there are allegations of torture and/or ill-treatment during the investigation, or based on the testimony of secret informants amounts to a human rights violation.

### *Women's human rights*

- Revise the draft Family Protection Law to ensure that it includes measures to prevent sexual and gender-based violence (SGBV), offers protection to the survivors of SGBV, and ensures accountability of the perpetrators of such violence, in compliance with international standards, and ensure its earliest adoption.
- Implement the commitments made in the Joint Communiqué of the Republic of Iraq and the United Nations on Prevention and Response to Conflict-related Sexual Violence dated 23 September 2016, including full implementation of the National Strategy on Combatting Violence against Women.
- Review relevant legislation, including the Iraqi Penal Code No. 111 of 1969 to ensure full compliance with international human rights obligations in relation to promoting and protecting women's rights. Priority should be given to removing 'honour' as a mitigating factor in the commission of crimes of violence against women and family members, as well as provisions of criminal law that permit individuals accused of rape or sexual assault to quash criminal cases against them by marrying victims.
- Provide adequate resources for psycho-social and medical support, including establishment of shelters, for victims of domestic or other forms of violence.

- Issue directives that require officials responsible for law enforcement and administration of justice to promptly, thoroughly, independently and impartially investigate all allegations of violence against women, in particular suspected “honour crimes,” to ensure that the perpetrators of such acts are held accountable.
- Provide appropriate capacity-building activities to law enforcement personnel on gender issues, particularly on violence against women.

#### *Rights of ethnic, religious, and other groups*

- Adopt the draft Law on the Protection of the Rights of Religious and Ethnic Minority Groups as proposed by Iraqi civil society organisations, ensuring that the law contains: an appropriate and inclusive definition of minorities; a mechanism by which minority groups can claim protection for cultural, religious, linguistic and heritage rights; cross-references to other legislation, removing any uncertainty about its primacy; and mechanisms for implementation capable of making binding decisions.
- Adopt the draft Law on Protection of Diversity and Prohibition of Discrimination put forth by Iraqi civil society organisations, which aims to eliminate discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, disability, birth, or other status.
- Strengthen the capacity of the Office on Minorities Issues, which works within the National Reconciliation Committee and reports to the Office of the Prime Minister. Ensure that the Ministry of Education takes appropriate action on specific incidents of discrimination in education.

#### *Rights of Persons with Disabilities*

- Review and amend the Law No. 38 of 2013 on the Care of Persons with Disabilities and Special Needs to ensure it is fully compliant with the Convention on the Rights of Persons with Disabilities (CRPD) and relevant international human rights norms and standards.
- Strengthen the legal framework for the promotion and protection of the rights of persons with disabilities to address prevailing attitudinal and physical barriers that prevent the full and equal participation of persons with disabilities in society.
- Ratify the Optional Protocol to the CRPD.
- Extend an invitation to the Special Rapporteur on the Rights of Persons with Disabilities to visit Iraq.

#### *Right to freedom of expression and opinion*

- Undertake a review of all existing laws and policies (including the draft Law on Freedom of Expression, Assembly, and Peaceful Protest) to ensure that they provide for and protect the right to freedom of expression and opinion of all persons in accordance with international human rights standards.

- Ensure that all prospective legislation respects and protects the rights of all individuals to receive and impart information freely and without hindrance, subject to certain restrictions as necessary in accordance with Iraq's obligations under international human rights law. Ensure journalists and media workers are protected against harassment and violence in the performance of their profession, that all allegations are promptly and thoroughly investigated, and those responsible are held accountable according to law.

### *Right to freedom of assembly*

- Ensure that the right of individuals to demonstrate peacefully is fully respected by relevant authorities in line with applicable international human rights norms.
- Conduct training courses for police and other law enforcement officials on management of public assemblies in compliance with international standards.
- Undertake public education campaigns aimed at creating awareness of individuals' rights, special duties, and responsibilities, particularly in relation to the rights to freedoms of expression, opinion and assembly.

## **Recommendations for the Kurdistan Regional Government**

### *Protection of Civilians*

- Ensure that the structure and lines of command of all security forces operating under the control the Kurdistan Regional Government are properly legislated, including defining a clear accountability system for those who commit violations of international humanitarian law and international human rights law.

### *Rule of Law and Administration of Justice*

- Ensure full respect for the right to a fair trial for all detainees, including persons who have engaged in hostilities and who are being detained by or handed over to the Kurdistan Regional Government. This includes that they are promptly informed of the charges, they have access to independent legal counsel, and they are brought before a court to be tried within a reasonable time.
- Release immediately or prosecute and bring to trial all detainees held for prolonged periods of time without charge.
- Without exception, transfer any juveniles being held in adult detention facilities to the Women and Juveniles Reformatories and ensure that they are accorded all fair trial rights and protections as required by international law applicable to juveniles subject to the criminal justice system.



- Establish the legal age of criminal responsibility at 13 years and institute alternatives to detention and imprisonment of juveniles. Make detention and imprisonment of juveniles applicable only as an exception, if and when no other measures are deemed effective.

#### *Detention Standards*

- Develop strategies that consider a full range of criminal justice policy and practice options, for the short, medium and long-term reduction of overcrowding in detention facilities.

#### *Death Penalty*

- Reinstate and make official the moratorium on the death penalty, including in relation to current convicts sentenced to death in the Kurdistan Region of Iraq (KR-I).

#### *Women's human rights*

- Amend the Act of Combatting Domestic Violence to extend its scope so that all forms of violence against women, not only domestic violence, are covered.
- Strengthen the capacity of police, investigators, judges and prosecutors, including through training courses, to ensure cases of domestic violence are handled in an appropriate and sensitive manner that prioritises the safety of the victim(s).
- Approve the shelter by-law drafted by the Ministry of Labour and Social Affairs (KR-I), which clarifies the role of relevant government ministries in relation to shelters for women seeking refuge from domestic violence and violence against women.
- Develop programmes to assist women leaving shelters to lead a normal life, including, for example, employment initiatives, workforce training courses, and opportunities for continuing (adult) education.

#### *Rights of ethnic, religious, and other groups*

- Strengthen the school curriculum and public education on human rights principles and fundamental freedoms to foster universal values, equal opportunities, respect for diversity and non-discrimination, including by implementing the proposal to mainstream key human rights principles submitted by UNAMI/OHCHR to the Ministry of Education (KR-I) in December 2016.
- Undertake measures to resolve the land disputes alleged by the Assyrian community and ensure that judicial decisions ordering the return of lands to Assyrians are enforced.

#### *Rights of Persons with Disabilities*

- Amend the Rights and Privileges of Disabled Persons and those with Special Needs Law No. 22 of 2011 to ensure it complies with the CRPD, and that it is fully implemented.

### *Right to freedom of expression and opinion*

- Ensure the unrestricted work of media professionals; take measures to prevent violations and protect journalists from harassment and violence in the performance of their profession; and conduct prompt and transparent investigations into all violations against media outlets and media workers.
- Pursue an effective investigation in relation to the killing of journalist Widad Hussein.

### *KRI Regional Human Rights Institutions*

- Support the independence of the Independent Board of Human Rights and provide adequate funding to ensure the successful implementation of its mandate.

### *Engagement with International Human Rights Mechanisms: Universal Periodic Review*

- Adopt the draft Regional Human Rights Action Plan aiming at facilitating the effective implementation of relevant recommendations of the second cycle of the Universal Periodic Review for Iraq.

## **Executive Summary**

This report, published by the Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI) in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR), covers the period 1 January to 30 June 2017.

The overall human rights situation in Iraq remained precarious. The ongoing armed conflict between the Government of Iraq and pro-Government forces and the Islamic State of Iraq and the Levant ('ISIL' also known as 'Daesh') has exacerbated violence and terrorism in Iraq and further eroded a range of human rights, including those pertaining to the rule of law and administration of justice, the care and protection of women and children from sexual and gender-based violence (SGBV) and conflict-related sexual violence (CSRV) and accountability for perpetrators, the respect and protection of the rights of minority ethnic and religious and other communities, protection of sexual minorities, and the rights of persons with disabilities, and the respect for the rights of freedom of expression and freedom of assembly. In addition to serious human rights abuses and the destruction of private and public property, many Iraqis also continue to have limited access to essential services and economic opportunities.

The majority of civilian casualties that occurred during the reporting period were the result of a sustained and deliberate policy of ISIL directly targeting civilians. From 1 January 2017 to 30 June 2017, there were a reported 5,706 civilian casualties resulting from the ongoing violence. This figure includes 2,429 persons killed and 3,277 wounded. Cumulatively, from 1 January 2014 to 30 June 2017, UNAMI/OHCHR recorded 82,750 civilian casualties (29,104 killed and 53,646 wounded) from armed conflict, terrorism and violence throughout Iraq. These figures should be considered as an absolute minimum.

Indiscriminate attacks by ISIL demonstrated a complete disregard for the impact on civilian lives. ISIL deliberately used civilians as human shields to protect its fighters, bases and strategic locations from attacks by forces under the control of the Government of Iraq and its allies and to increase civilian casualties. As Government-led military operations re-took larger areas from ISIL in and around Mosul, Tal Afar and other areas, ISIL retaliated by intensifying attacks against civilians attempting to flee areas under its control in addition to targeting civilians for not supporting ISIL *takfiri* doctrines. ISIL targeted civilians deliberately; religious and community leaders, members of the Iraqi government, Iraqi security forces, and media, medical, education, and other professionals, particularly female professionals were all targets of their attacks. ISIL also continued to subject women and children from minority ethnic and religious communities to conflict related sexual violence (CRSV), including rape and other forms of sexual violence of comparable gravity.

UNAMI/OHCHR recorded instances of alleged violations and abuses of human rights allegedly involving ISF members, but conclusive information could not be obtained. In other cases, alleged incidents were filmed on videos that were posted on social media. UNAMI/OHCHR advocated with the Government of Iraq and other authorities for prompt and thorough investigations to be carried out and for those responsible to be brought to justice.

Airstrikes also claimed civilian lives and damaged civilian property and infrastructure in areas under the control of ISIL during the period covered by this report. In many investigations, UNAMI/OHCHR was not able to determine the exact nationality of the aircraft involved in the specific airstrikes mentioned below.

With respect to the rule of law and the administration of justice, conditions in prisons and other detention facilities throughout Iraq remain inadequate. The most pressing challenge is overcrowding, also attributable to the closure of facilities and the transfer of detainees to secure facilities in southern Iraq. Conditions for women and children in prisons and reformatories remain equally dire; children have limited access to education, medical and social services specific to their needs.

At present, Iraq does not have adequate legislative frameworks to prevent or protect women and children from domestic, sexual and gender-based violence or provide safe spaces to survivors of such violence. There is a lack of financial or in-kind support to shelters or other safe spaces where women and children can safely escape domestic violence or other life threatening situations. Many of these women are unjustly incarcerated as “prostitutes” or threatened with honour killings by members of their own families. Additionally, there are no accountability mechanisms in place for the perpetrators of domestic and sexual violence against Iraqi women. UNAMI/OHCHR remains troubled by the lack of movement in the Council of Representatives to push through domestic violence legislation that is in accordance with international human rights norms and standards. The draft Family Protection Law remains stalled in Parliament, as the current iteration of the draft law prioritises family reconciliation over justice and protection of survivors of abuse. The draft law also fails to offer long-term protection for victims, penalise offenders, or establish obligations for police and prosecutors to respond to domestic violence incidents.

Minority ethnic and religious communities continue to suffer large-scale displacement and subsequent destruction of communities as a result of the protracted armed conflict. In many cases, minorities are directly targeted based on religion, culture or other differences. In addition to societal discrimination,

Persons with Disabilities (PwD) or other special needs continually face barriers to employment and economic opportunities to achieve their full potential in political, social and economic life.

Discrimination and attacks against sexual minorities/LGBTI persons intensified over the reporting period with reports of increased threats, physical attacks, kidnappings, and in some cases, killings due to sexual orientation and gender identity, whether perceived or real. Threats and harassment on social media escalated in some cases to attacks, abductions, torture, mutilation and killings.

Respect for and protection of the rights of freedom of expression and freedom of assembly was under constant threat throughout the reporting period. UNAMI/OHCHR received several reports of intimidating, threatening, beating, abducting and in some cases, the killing of journalists. Many Iraqis did not enjoy the freedom to peaceful assembly and there were several documented incidents of security forces employing rough, and at times disproportionate, responses to public gatherings. Of particular concern to UNAMI/OHCHR, the Draft Law of Freedom of Expression, Assembly, and Peaceful Protest was presented to the Council of Representatives with many provisions that do not conform to Constitutional or international standards.

UNAMI/OHCHR continued to support the capacity of national human rights institutions and civil society to promote respect for and protection of human rights and the rule of law. However, UNAMI/OHCHR remains concerned regarding the selection process by the Committee of Experts for the new commissioners for the Iraqi High Commission for Human Rights (IHCHR). A number of civil society and other actors had expressed their concerns to UNAMI/OHCHR regarding; the politicization of the process, the promotion of certain candidates based on their affiliation, and the circulation of a list of those who would be selected months before the process was officially to start (with candidates divided amongst political blocks). As a result, UNAMI/OHCHR chose to not be involved in any manner with the selection of the new commissioners. Subsequently, UNAMI/OHCHR was removed by amendment of the applicable law as a voting member of the Committee of Experts to that of an observer. This resulted in a number of civil society organizations issuing statements criticizing the politicization of the selection process. Two civil society representatives resigning from the Committee of Experts due to concerns regarding the process.

UNAMI/OHCHR carried out a variety of capacity building activities for Iraqi ministries on human rights and rule of law issues. UNAMI/OHCHR continued to work with a variety of civil society organizations throughout Iraq to help them identify gaps in the respect for and protection of human rights and the rule of law, to formulate strategies and to encourage the implementation of solutions. UNAMI/OHCHR also supported civil society advocacy for anti-discrimination, sexual and gender based violence legislative reforms, and other initiatives.

### **Kurdistan Region of Iraq**

The Parliament of the Kurdistan Region of Iraq (KR-I) continues to be in recess due to political strife within the Kurdistan Region. Accordingly, the legislative authority is not functioning, and its crucial role of enacting laws, monitoring the executive power and representing the public is not exercised.

One of the consequences of the legislative impasse is the continued application of the KR-I Anti-Terrorism Law No.3 of 2006, which does not respect the human rights obligations of Kurdistan Regional Government under international human rights law, namely the Convention Against Torture

(CAT) and ICCPR. This Law expired on 18 July 2016, as the legislative impasse prevented its amendment or replacement. It continues to be applied to cases of terrorism, covering the vast majority of crimes committed by ISIL while the law was in force. UNAMI/OHCHR has serious concerns arising from the application of the Criminal Procedure Code, including in proceedings based on terrorism charges, including long delays in bringing detainees before a judge, restrictions on or denial of access to lawyers, or prolonged detention without trial. The criminal justice system largely relies on confessions to found convictions, and does not ensure redress mechanisms to investigate allegations of torture and other ill treatment raised by the defendants before the courts. To address relevant due process issues, UNAMI/OHCHR initiated the establishment of a multi-sectoral Task Force on the Rule of Law and Justice, which is to assist the Kurdistan Regional Government in complying with international human rights standards on administration of justice.

UNAMI/OHCHR access to the Anti-Terrorism Detention Centre in Erbil has not been restored. Since October 2016, UNAMI/OHCHR has not been able to visit this centre to monitor individual cases and general conditions. Further, there has been no progress in the case of Walid Younis, discussed in previous reports, who remains detained, apparently arbitrarily, in this facility.

With the progress of military operations to dislodge ISIL from Ninewa, the KR-I has experienced a large influx of detainees suspected of conflict-related crimes. The gap in criminal legislation with regard to processing gross abuses of human rights and breaches of international humanitarian law has to be urgently addressed. Kurdistan Region Government counterparts are duly represented in the Task Force on Accountability and Justice, established by UNAMI/OHCHR to guide the process of drafting a law or laws, complimentary to Iraqi legislation, with a view to providing jurisdiction for Iraqi courts at the federal and KR-I levels over international crimes committed in Iraq.

In May 2017, UNAMI/OHCHR requested the Kurdistan Regional Government stay the execution of three men whose orders of execution were signed by President Barzani despite an informal moratorium on executions. No executions took place in the reporting period.

Journalists and media continuously report intimidation and limitations on the operation of media channels in KR-I. Restrictions have been imposed on journalists and the media without strict consideration of the applicable international and national legal frameworks. UNAMI/OHCHR remains concerned at the lack of progress in the investigation of the death of Mr. Widad Hussein, a correspondent with Rozh News, whose body was found on 13 August 2016 near Dohuk with physical marks on his body that indicate that he might have been tortured prior to his death. The General Directorate of the Police (KR-I) established a committee to investigate the murder. However, as of the date of reporting, UNAMI/OHCHR has not been informed of any progress in the investigation.

The Kurdistan Regional Government has yet to endorse its draft regional human rights action plan for the implementation of the UPR recommendations that apply to the KR-I. UNAMI/OHCHR provided technical assistance to support and facilitate the work of the Steering Committee, which duly prepared a draft plan.

## 1. Introduction

The human rights situation in Iraq remained fragile, primarily owing to the ongoing armed conflict between the Government of Iraq and pro-Government forces and ISIL. Armed conflict, violence and terrorism continue to have a corrosive effect on a range of human rights, including those pertaining to the rule of law and administration of justice, the care and protection of women and children from sexual and gender-based violence (SGBV) and conflict-related sexual violence (CSRV) and accountability for the perpetrators of such violence, the respect and protection of the rights of minority ethnic and religious and other communities, protection of sexual minorities, as well as the rights of persons with disabilities, and the respect for the rights of freedom of expression and freedom of assembly. Lack of access to basic services and economic opportunities remain serious challenges for many of Iraq's people.

## 2. Methodology

The information contained in this report is based, where possible, on direct monitoring and testimonies obtained directly from the victims, survivors, or witnesses of human rights violations and abuses and/or violations of international humanitarian law. UNAMI/OHCHR continued to conduct interviews with internally displaced persons (IDPs) who had relocated to the KR-I, Anbar, Baghdad, Diyala, Kirkuk, and Ninewa governorates, and other areas of Iraq, as well as with other victims, survivors, and witnesses of incidents.<sup>1</sup> Information was also obtained from a variety of sources,<sup>2</sup> including Government and non-governmental organizations, and United Nations entities. Unless specifically stated, all information presented in this report has been corroborated and verified using independent, credible, and reliable sources. The ongoing security situation in Iraq has affected the capacity of UNAMI/OHCHR to undertake direct monitoring and verification of allegations of human rights violations and abuses and violations of international humanitarian law in some areas of the country, particularly in conflict-affected areas and in areas under ISIL control. In some cases, victims, survivors and witnesses were reluctant to speak to UNAMI/OHCHR due to threats, intimidation, and/or fear of reprisals. Where reports of incidents have not been cross-checked or verified, they have not been included in this report. The incidents cited below are emblematic of the main human rights concerns, but are not exhaustive.

## 3. Protection of Civilians

The ongoing-armed conflict, violence and terrorism in Iraq continued to have a terrible impact on civilians in terms of deaths, injuries, loss of personal property, destruction of essential infrastructure, impairment of livelihoods, access to essential services, and destruction of places of religious and cultural significance. ISIL continued to directly target civilians, carry out indiscriminate attacks irrespective of the impact on civilians, and exploit civilians as shields to protect its fighters, bases and

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<sup>1</sup> As of 30 June 2017, UNAMI had conducted 994 interviews with IDPs, witnesses and survivors of human rights violations and abuses in areas where they have concentrated. UNAMI also conducts telephone interviews with victims and witnesses of human rights violations and abuses, and civilians who remain trapped in ISIL-controlled areas or who have fled to other areas of Iraq but are not directly accessible.

<sup>2</sup> These include Government officials and institutions, local and international media, local non-governmental organizations, human rights defenders, tribal leaders, religious leaders, political figures, and civil society actors, as well as United Nations entities operating in Iraq.

strategic locations from attack or to ensure civilian casualties in the event of attack. As ISIL progressively lost control of territory in Mosul and surrounding areas, the prevalent trend was a shift away from the killing of persons suspected to be opposed to ISIL *takfiri* doctrines or control, and towards the deliberate killing of civilians attempting to flee from areas under ISIL control.

UNAMI/OHCHR recorded instances of alleged violations and abuses of human rights allegedly involving ISF members, but conclusive information could not be obtained. In other cases, alleged incidents were filmed on videos that were posted on social media or published, such as the case with an article in *Der Spiegel* claiming ISF were involved in violations. UNAMI/OHCHR advocated with the Government of Iraq and other authorities for prompt and thorough investigations to be carried out and for those responsible to be brought to justice. On 17 August, Iraqi authorities announced on social media that, after completing their investigations, including into the *Der Spiegel* article, they determined that some alleged violations occurred and those accused have been referred to the judiciary. Prime Minister al-Adabi further added on 16 September that violations during the Mosul campaign were carried out by individuals, not systematic, and that those responsible were being held accountable.

Airstrikes also claimed civilian lives and damaged civilian property and infrastructure in areas under the control of ISIL during the period covered by this report. In many investigations, UNAMI/OHCHR was not able to determine the exact nationality of the aircraft involved in the specific airstrikes mentioned in this report.

UNAMI/OHCHR also documented instances of threats to, and forced evictions of, families alleged to have ISIL-affiliated members. In some cases, unidentified groups made the threats through so-called night letters ordering people to leave or face dire consequences. In other cases, local authorities took the lead or in other instances have followed the wave of resentment amongst certain segments of the population and disregarding respect for the rule of law.

Women, children, people with disabilities, aged persons, and members of Iraq's diverse ethnic and religious communities suffered disproportionately from the impact of armed conflict, violence and terrorism. Many individuals belonging to 'at risk' and vulnerable groups have been subjected to sexual and other forms of violence, including sexual slavery, and children reportedly continued to be subjected to indoctrination by ISIL and exploited to serve as fighters, to carry out suicide bombings, and to perpetrate other horrendous acts including beheadings. Such persons are in desperate need of basic services to assist them, including appropriate medical, psycho-social, financial and other forms of support. Of particular concern is the need for reintegration of women and children—who may have been subjected to sexual and other forms of violence—into their families and communities. Particularly vulnerable are; women and girls who were forcibly married to ISIL fighters, or enslaved and subjected to rape and other sexual and physical violence, and children who may have resulted from such violence.

In mid-October 2016, the Government of Iraq commenced military operations in Ninewa and eventually Mosul city. At the beginning of the campaign and on a number of subsequent occasions, the Government reiterated its position that the protection of civilians would remain paramount for the conduct of its operations against ISIL and that any individual, including members of the ISF and forces operating in support, would be held accountable for any violations or crimes that they may

commit. To support this commitment, UNAMI/OHCHR presented a document to the Government of Iraq and the Kurdistan Regional Government entitled “Principles for the Conduct of Security Screening of Internally Displaced Persons Fleeing ISIL controlled Territories.” The document contained directives in line with international norms, as guidance to the authorities, of the standards that should be applied consistently and without any discrimination or arbitrary treatment in security screening operations of persons displaced into areas retaken by ISF and forces operating in support.

### *3.1. Civilian casualties*

From 1 January 2017 to 30 June 2017, a minimum of 5,706 civilian casualties resulted from the ongoing violence, including at least 2,429 persons killed and 3,277 wounded. From 1 January 2014 to 30 June 2017, UNAMI/OHCHR recorded at least 82,750 civilian casualties (29,104 killed and 53,646 wounded) as a result of the armed conflict, terrorism and violence in Iraq. These figures should be considered as absolute minimums.

Ninewa was the worst affected governorate during the first half of 2017, with a minimum of 2,334 civilian casualties (1,357 killed and 977 wounded). Baghdad followed with 1,978 civilian casualties (495 killed and 1,483 wounded), while Anbar recorded the third highest rate of civilian casualties with 583 (202 killed and 381 wounded).<sup>3</sup>

### *3.2. Child casualties*

Armed conflict and violence continued to impact the lives of children during the reporting period. Incidents were tracked through the Monitoring and Reporting Mechanisms established pursuant to Security Council Resolution 1612. According to the Country Task Force on Children and Armed Conflict, 390 incidents of grave violations affecting 2,291 children were recorded. Of those, 310 incidents were verified, affecting 604 children. In 316 of these incidents (252 verified), 257 children were reportedly killed (211 verified) while another 547 were injured (343 verified). Most child casualties were in Ninewa, as a result of active hostilities. There were reports of 348 boys being recruited and used by parties to the conflict, with 37 of these reports being verified. Fourteen attacks on schools and another three on hospitals were verified, while the use for military purposes of six schools and one hospital were verified. Eight children were verified to have been abducted.<sup>4</sup>

## *4. Rule of Law and Criminal Justice/Administration of Justice*

Iraqi criminal law contains some provisions ensuring due process and fair trial rights. However, this legal framework lacks additional guarantees to uphold a wide range of political and civil rights as

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<sup>3</sup> For a detailed account of civilian casualties and protection of civilians concerns resulting from the campaign to retake Mosul and surrounding areas from ISIL, please see UNAMI/OHCHR “Report on the Protection of Civilians in the Armed Conflict in Iraq: The Ninewa Operations and the retaking of Mosul City, 17 October 2016 – 10 July 2017”. This report presents a summary of incidents investigated and verified by UNAMI/OHCHR involving violations and abuses of international human rights and violations of international humanitarian law linked to the non-international armed conflict between the Iraqi Security Forces and affiliated armed groups, and ISIL.

<sup>4</sup> Figures and information provided by the Country Task Force on Children and Armed Conflict, 30 June 2017.



required under Iraq's international human rights obligations. The criminal law continues to contain provisions that are discriminatory against women and children (such as provisions accepting "honour" as mitigation for crimes of violence against family members), or that criminalise certain acts (such as criminal libel and defamation) that may be exploited to affect the legitimate enjoyment of certain rights. The Anti-Terrorism Law No. 13 of 2005 is vague in its application and does not include due process and fair trial guarantees. Its application remains of particular concern.

#### *4.1. Due process*

UNAMI/OHCHR remains concerned at the lack of consistent adherence to due process and fair trial requirements,<sup>5</sup> in particular, i) the frequent failure to inform persons upon arrest of the reasons for arrest and the charges being brought against them, ii) prolonged pre-trial detention, iii) lack of regular or appropriate access to legal counsel, and iv) delays in carrying out review of the detainees' legal status by competent judges. In practice, it is difficult to ascertain whether warrants and detention orders are issued as required by relevant laws, since accused persons are not usually furnished with copies of these documents.

UNAMI/OHCHR remains concerned about complaints received from a significant number of detainees and individuals subsequent to their release, that they were not told the reasons for their arrest or detention, and not provided with the details of the actual charges for which they had been arrested. UNAMI/OHCHR also continues to be concerned regarding complaints that access to lawyers and legal counsel is not provided or denied to detainees during investigation proceedings. On occasions that access to lawyers was permitted, this was usually during the trial phase when the court would appoint a lawyer to act on behalf of the accused after investigations had been completed.

UNAMI/OHCHR has recorded many instances where accused persons have been held beyond time limits prescribed by law; and many detainees complained that they had not been brought before an investigative judge at all during the period of their detention. Where defendants were brought before an investigative judge, the proceedings were often perfunctory, merely to confirm the identity of the defendants. The latter were then returned to their cells without being informed of the process that would then be applied to them or clarification of the charges being brought against them.

To address these rule of law concerns, UNAMI/OHCHR has continued to recommend and advocate for legal reforms to ensure that due process and fair trial standards are fully compliant with international human rights standards. UNAMI/OHCHR is also proposing better equipping of police, investigators and judges to enable forensic investigations and trials that comply with constitutional and international standards. Likewise, UNAMI/OHCHR continues to conduct training for law enforcement officials on human rights standards to be complied with in the conduct of their duties, and has shared with the Ministry of Interior booklets and information cards for police on standards of conduct. Consultations are ongoing on the adoption of the booklets and their dissemination to all serving police personnel. In addition, UNAMI/OHCHR is in the process of developing a revised

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<sup>5</sup> For a comprehensive overview of powers of arrest and due process requirements under Iraqi law, see UNAMI/OHCHR, 2010 Report on Human Rights in Iraq, section 4.5 p.20, January 2011, available online at [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=43\\_cc04be363b73c29225e79d7ae57e87f2&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=43_cc04be363b73c29225e79d7ae57e87f2&Itemid=650&lang=en). [accessed on 30 June 2017].

curriculum on human rights and civilian policing standards for the Iraqi and KR-I police training academies. It is anticipated that this curriculum, if adopted, will be institutionalized and become a regular feature of the training programme for police officers in Iraq.

#### *4.2. Accountability*

Ensuring justice and accountability remains crucial if community and national reconciliation is to succeed in post-ISIL Iraq. While the international community is considering initiatives that aim to promote accountability for international crimes committed in Iraq, UNAMI/OHCHR has undertaken work with a range of partners to promote mechanisms at the national level to ensure accountability of individuals who have allegedly committed crimes and human rights abuses. These mechanisms must also ensure the appropriate care and protection of the victims and survivors of those crimes and violations. It is also essential to ensure that human rights violations and abuses are properly documented to support possible prosecutions where perpetrators can be identified, and to support the referral of victims and survivors to appropriate medical, psycho-social and other forms of support. UNAMI/OHCHR has been working with partners to promote appropriate documentation of crimes and support services for victims and survivors, particularly for women and children who have been the victims of sexual and other forms of violence, and children in armed conflict who have been subjected to indoctrination and radicalization by ISIL.

Iraq is not a State Party to the Rome Statute of the International Criminal Court (ICC), and has not accepted the jurisdiction of the ICC in relation to the conflict under article 12 of the Rome Statute. Presently, Iraqi courts do not have jurisdiction over international crimes committed in the country, and judicial capacity to appropriately investigate, document, charge and try perpetrators of such crimes remains extremely limited.

Given the scale of serious violations that have been committed in Iraq, UNAMI/OHCHR is pursuing a strategy at the national level with a view to allowing domestic courts to have jurisdiction over international crimes. This would include legal reforms to introduce definitions of international crimes and penalties into legislation and the establishment of a specialized court with a national jurisdiction to try perpetrators in conformity with principles of international criminal law. To that end, UNAMI/OHCHR established a Task Force on Accountability and Justice, comprising national and international legal experts to guide the process of drafting a proposed law, complimentary to Iraqi legislation, with a view to providing Iraqi courts with jurisdiction over international crimes.

UNAMI/OHCHR has also monitored judicial decisions issued pursuant to the Amnesty Law No. 27 of 2016,<sup>6</sup> which permits persons sentenced to death or imprisonment to be granted amnesty for certain crimes. As discussed in the previous UNAMI/OHCHR six monthly report covering July to December 2016, a wide range of serious crimes are excluded from the operation of the Amnesty Law. On 25 February 2017, the Ministry of Justice announced on its website that a total of 756 inmates had been released under the Amnesty Law since its publication. In November 2016, 174 inmates were released from the Ministry's prisons under amnesty, and 194 were released in December 2016, making a total of 368 amnesty releases in 2016. In January 2017, 347 inmates were released under amnesty and a

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<sup>6</sup> Adopted by the Council of Representatives on 25 August 2016 and published in official Gazette number 4417 issued on 26 September 2016.

further 41 during February 2017. According to the Ministry of Justice website announcement, monthly statistics on the number of inmates released under amnesty will continue to be released to the media.<sup>7</sup>

#### *4.3. Ill-Treatment and Torture*

Despite the Constitution and laws of Iraq and international human rights laws, which unequivocally prohibit torture, UNAMI/OHCHR continued to receive a number of complaints from detainees, prisoners, and defendants during court proceedings, or individuals subsequent to their release, alleging that they had been subjected to torture and ill-treatment to provide confessions during investigation. For example, on 3 May 2017, Husain Mazen (a juvenile) and three companions were arrested by Iraqi Police at al-Hindiya checkpoint in south-eastern Karbala after one of Mazen's companions allegedly failed to produce identification documentation. While in custody, the four detainees were allegedly beaten by four to five Iraqi police. As a result, Mazen reportedly lost consciousness and was taken by Iraqi police to al-Hussein Hospital in Karbala where he was reportedly pronounced dead on arrival and an autopsy performed. The Ministry of the Interior reportedly established a committee to investigate this incident and recommended that any members of the Iraqi police whose actions may have contributed, materially or otherwise, to the juvenile's death be held accountable. On 9 May, UNAMI/OHCHR wrote to the General Prosecutor and the Ministry of the Interior to express that all those responsible for the tragic death of Husain Mazen should be held accountable according to the law. No response has been received to date.

#### *4.4. Detention Standards*

UNAMI/OHCHR monitored places of detention administered by the Ministry of Justice and provided technical advice to prison directors and relevant ministries through recommendations on compliance with international standards on detention.

Physical conditions in many detention facilities and prisons remain poor. Overcrowding has strained already poorly maintained or out-dated infrastructure, including water, sewerage, ventilation, and other services. The situation has been exacerbated by; ongoing military operations and the resulting increase in the number of detainees, and the transfer of detainees and prisoners from insecure locations to facilities that are already over-capacity and poorly resourced. Rehabilitation programmes exist in some prisons, and include literacy and computer classes, vocational and work schemes. However, there are very few structured programmes, particularly in minimum security prisons, aimed at countering radicalization for inmates who had previously been subjected to extremist indoctrination.

On 26 April, UNAMI/OHCHR conducted a monitoring visit to Taji detention and prison facility in Baghdad that operates under the authority of the Ministry of Justice to monitor conditions of accommodation and treatment of inmates. UNAMI/OHCHR met with the facility warden and other staff and briefly inspected the facility, including dormitories, the medical facility, visiting area, and vocational training facility. UNAMI/OHCHR was not allowed to conduct confidential interviews with

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<sup>7</sup> <http://www.moj.gov.iq/view.3010/> [accessed on 30 June 2017].

detainees and prisoners. As during a previous visit to the facility,<sup>8</sup> it was observed that the prisoners and detainees were in overcrowded conditions with limited access to natural light and an absence of beds was noted. UNAMI/OHCHR also noticed poor standards of hygiene in storage and preparation of food. According to the senior management of the facility, vocational training and education has been suspended since a fatal bombing attack in 2013 on a vehicle carrying medical staff home.

On 22 June, UNAMI/OHCHR carried out a monitoring visit to al-Adala II prison in Baghdad. Until recently, al-Adala II housed detainees on terrorism-related charges but by the time of the visit they had been transferred to other detention facilities several months earlier. Al-Adala II now only accommodates convicts serving sentences of 15 years of imprisonment or more. UNAMI/OHCHR was not permitted to speak with them alone in order to conduct confidential interviews and it was noted that the prisoners were in overcrowded conditions. UNAMI/OHCHR examined two cells from the outside and found that they lacked natural light and that instead of beds, only mattresses were provided to inmates. During the visit, UNAMI/OHCHR was told that the Medical Facility lacked a range of medicines and equipment. UNAMI/OHCHR recommended, *inter alia*, that vocational training be re-instituted and emphasized the critical importance of rehabilitation of prisoners, both for the individuals and society at large.

#### 4.5. Kurdistan Region of Iraq

##### 4.5.1. Legislative Framework

The Parliament of the KR-I remains in recess due to internal political strife in the Kurdistan Region. This has hindered the functioning of the legislative authority, including the performance of its crucial role of enacting laws, representing the public and monitoring the executive.

UNAMI/OHCHR continues to be concerned with the application of the Anti-Terrorism Law No.3 of 2006 (KR-I). The law was previously renewed every two years since its adoption, but expired on 18 July 2016. UNAMI/OHCHR welcomed the non-extension of the Law, but remains concerned that the law is still applied with respect to crimes allegedly committed before the law expired. The Law does not include a comprehensive definition of terrorism yet criminalizes terrorist acts, penalization of such acts, and fulfilment of the duty of KR-I to protect individuals within its jurisdiction. The Law imposes mandatory death sentences for a number of crimes<sup>9</sup> including those that do not amount to the most serious crimes under international law. The Law also includes a provision<sup>10</sup> that could be interpreted to go beyond the legitimate limitations that may be imposed on the right to freedom of expression as provided for in ICCPR. Finally, and of significant concern, the Law does not impose an absolute prohibition on the use of torture or ill-treatment, and considers that confession extracted under duress may be admissible in judicial proceedings if supported by other lawfully obtained evidence.<sup>11</sup> This provision also breaches Article 37, paragraph 1 (c) of the Iraqi Constitution, which categorically prohibits torture for any reason and prohibits evidence obtained through torture to be relied on in

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<sup>8</sup> UNAMI/OHCHR carried out its first monitoring visit to Taji prison in Baghdad on 15 May 2013.

<sup>9</sup> Article 2 of the Anti-Terrorism Law.

<sup>10</sup> Article 4, Para. 4 of the Anti-Terrorism Law.

<sup>11</sup> Article 13 of the Anti-Terrorism Law.

judicial procedures. UNAMI/OHCHR continues to follow up with authorities on due process issues pertaining to counter-terrorism issues.

#### *4.5.2. Due process*

UNAMI/OHCHR continues to observe breaches in the application of the Criminal Procedure Code (KR-I), in particular in proceedings relating to terrorism charges, including long delays in bringing detainees before a judge, restrictions on or denial of access to legal counsel, or prolonged periods of detention without trial. There remains a general perception among some law enforcement officials that confessions are the ultimate form of evidence, which once obtained means that forensic and other types of evidence to establish guilt of an accused person are unnecessary to obtain a conviction.

In light of such concerns, in December 2016, UNAMI/OHCHR approached the Kurdistan Regional Government to establish a mechanism to address due process and administration of justice issues. In January 2017, Mr. Nechirvan Barzani, the Prime Minister of KR-I, established a Task Force on the Rule of Law and Justice under the auspices of the High Committee to Evaluate and Respond to International Reports and the assistance of UNAMI. The Task Force comprises representatives of relevant ministries, civilian and military lawyers, criminal investigators, judges, the Independent Board of Human Rights, and UNAMI/OHCHR. The objectives of the Task Force include assisting the Kurdistan Regional Government in ensuring full compliance of rule of law and administration of justice with international human rights obligations; and guaranteeing that security measures employed while countering terrorism are in full conformity with human rights laws. It will also respond to immediate needs related to allegations of human rights violations, while also laying a foundation for capacity development of various institutions in the KR-I.

UNAMI/OHCHR continues to follow the case of Mr. Ahmad Walid Younis, discussed in previous reports, whose continued detention has been qualified as arbitrary by the UN Working Group on Arbitrary Detention. UNAMI/OHCHR has repeatedly requested access to Mr. Younis. The relevant Asayish authorities have not responded positively to these requests, nor provided any additional information as to the basis of Mr. Younis' continued detention.<sup>12</sup>

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<sup>12</sup> Mr. Ahmad Walid Younis was arrested in 2000 and kept in detention without charge or trial for nearly ten years, including several months of solitary confinement. In August 2010, he was officially charged under the KR-I Anti-Terrorism Law with “sending orders and instructions from prison” to carry out terrorist attacks in Dohuk in 2009. In convicting and sentencing Mr. Younis, the court only took into account time served from when he was charged in 2010, refusing to include the ten years prior to this that he had been imprisoned without charge. On 19 September 2011, his sentence was upheld by the Court of Cassation. Mr. Younis was due for release in March 2015, but he was kept in detention for no apparent reason. While not informed about the reason for his continuing detention, he was brought before the court again to answer other charges. UNAMI/OHCHR monitored the Criminal Court proceedings held on 25 February 2016, where Mr. Younis was acquitted by the presiding judge. His case was then transferred to the Cassation Court in Erbil for review. On 27 April 2016, the United Nations Working Group on Arbitrary Detention adopted an Opinion on the case of Mr. Younis noting that the deprivation of his liberty is arbitrary and requesting the Government of Iraq to immediately release him and provide him with full reparation. As of the end of June 2017, Mr. Younis was still in detention and his case remained pending.

#### *4.5.3. Ill-Treatment and Torture*

UNAMI/OHCHR remains concerned by allegations that detainees are subjected to torture and/or other ill-treatment during the interrogation phase in order to force them to make confessions. UNAMI/OHCHR has previously noted that detainees are reluctant to report torture and/or other ill-treatment for fear of reprisals or difficulties in the legal procedures. It appears that there is no uniform and effective policy in place to deal with allegations of torture and other ill-treatment raised by the defendants before the courts.

#### *4.5.4. Detention Standards*

Detention facilities in the KR-I are managed by several authorities within the Kurdistan Regional Government: the Ministry of Interior (KR-I) for detention relating to general criminality; the Asayish for terrorism, organized crime and drug-related offences; and the Ministry of Labour and Social Affairs (KR-I) for juvenile and female detainees and adult convicts. In Erbil and Duhok Governorates, additional detention facilities are maintained by the General Directorate of Counter-Terrorism for crimes relating to security and terrorism. UNAMI/OHCHR can access all detention facilities, subject to certain notice requirements, with the exception of those run by the General Directorate of Counter-Terrorism in Erbil.

A request by UNAMI/OHCHR to the relevant ministries in the KR-I for the number of detainees and prisoners held during the reporting period remains outstanding. In 2016, UNAMI/OHCHR carried out a mapping exercise of conditions across all detention facilities and prisons in the KR-I with a focus on compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners, which “sets out principles and practices in the treatment of prisoners and the management of institutions.”<sup>13</sup> It was noted that, while conditions are generally acceptable in larger detention facilities run by the Ministry of the Interior (KR-I), conditions remain poor in many smaller Ministry detention centres. UNAMI/OHCHR continues to be concerned about overcrowding in Asayish facilities, particularly in Erbil Governorate, and in the Anti-Terrorism Directorate facility in Erbil. In addition, the lack of or absence of beds in Asayish facilities is also of concern. The escalation of the conflict since June 2014 has caused a significant increase in the number of detainees being held in these facilities, with a significant number being held on suspicion of terrorism. Detainees also include a number of IDPs who have been arrested or otherwise detained by security forces.

#### *4.5.5. Women and Juveniles in detention*

During previous visits to Asayish-run facilities, UNAMI/OHCHR encountered several juveniles held with adults.<sup>14</sup> UNAMI/OHCHR has continued to advocate for the juveniles to be immediately transferred to the Ministry of Labour and Social Affairs (KR-I) juvenile reformatory as the practice of holding them alongside adults in detention is contrary to international human rights law, in particular

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<sup>13</sup> Standard Minimum Rules for the Treatment of Prisoners, 13 May 1977 (revised on 17 December 2015), paragraph one of preliminary observations.

<sup>14</sup> UNAMI/OHCHR addressed the issue through the High Committee to Evaluate and Respond to International Reports in regular meetings and calling upon authorities that all persons who have unlawfully engaged in hostilities and who are being detained by Kurdistan Regional Government be charged promptly according to the law and be informed of the charges, and due process and fair trials must be ensured.



the Convention on the Rights of the Child<sup>15</sup> and ICCPR.<sup>16</sup> UNAMI/OHCHR has also intervened with authorities of the Kurdistan Regional Government to clarify that detainees may not be held as “prisoners of war” as this status does not exist in international humanitarian law applicable to non-international armed conflicts such as the current conflict in Iraq.

## 5. Death Penalty

UNAMI/OHCHR continued to conduct advocacy on the abolition of the death penalty with both the Government of Iraq and the Kurdistan Regional Government to impose a moratorium on the death penalty with a view to its eventual abolition. Since 2015, the federal Ministry of Justice has not responded to repeated requests by UNAMI/OHCHR for information regarding the implementation of the death penalty, particularly how many persons have been sentenced to death, and the time and location of executions. UNAMI/OHCHR has reiterated to the Government of Iraq that executions and death sentences implemented pursuant to judicial proceedings are a matter of public interest, which requires that such decisions be implemented in a transparent manner with full public disclosure.

However, reports of executions are sometimes reported on the social media accounts of the Minister of Justice or on the Ministry of Justice website. With regard to executions in the first half of 2017, in a statement released on the Facebook page of the Minister of Justice and on the website of the Ministry of Justice on 6 July, it was reported that 14 executions were carried out in June after confirmation was received that none of the 14 persons qualified for amnesty under the Amnesty Law.<sup>17</sup> No details were provided about the identity of those executed or the crimes for which they had been sentenced.

On 23 August, local media quoting a security source reported that three Iraqis (two from Baghdad and one from Babil Governorate), sentenced to death for crimes committed under the Anti-terrorism Law 13 of 2005, were executed in Nassiriya Central Prison on the same day. Reports were received by UNAMI/OHCHR that on 23 August three convicts were executed, adding that four others had been executed on an undetermined date between the end of June and 23 August. No information regarding these alleged executions was posted on the website of the Ministry of Justice or in the social media profiles of the Minister of Justice as of 9 September.

### 5.1. Kurdistan Region of Iraq

As noted in previous reports, in 2015 and 2016 the Kurdistan Regional Government breached its moratorium on the death penalty that has been in place since 2008. The moratorium is based on an instruction from the President of the KR-I, Masoud Barzani, indicating that death sentence warrants are not to be processed. In May, UNAMI/OHCHR received information that President Barzani had signed orders of execution for three of six men sentenced to death for a murder in 2015. UNAMI/OHCHR advocated with authorities that these and all pending executions be stayed and the strict moratorium be reinstated. UNAMI/OHCHR also requested authorities take all available measures to ensure that trials involving the death penalty adhere strictly to international standards of

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<sup>15</sup> Convention on the Rights of the Child, Article 37 (c).

<sup>16</sup> ICCPR, Article 10 (b).

<sup>17</sup> <http://www.moj.gov.iq/view.3280/> [accessed on 19 July 2017].

fairness and due process and that Kurdistan Regional Government take steps with a view to abolishing the death penalty in law. UNAMI/OHCHR is not aware of any executions that have taken place in the reporting period in the KR-I.

## 6. Rights of Women

Women in Iraq continue to face discrimination, which adversely impacts on their ability to fully and equally participate in the political, social and economic life of Iraq. Throughout the ongoing armed conflict in Iraq, women and children continue to be subjected to violence of all forms, including in particular sexual and gender-based violence. There are currently no effective legal or policy frameworks which prevent sexual and gender-based violence or protect the survivors of violence, or laws that ensure accountability for the perpetrators of violence.

### *6.1. Legal and Policy Framework*

The National Strategy to Eliminate Violence against Women (2014-2017) remains under-implemented. Civil society organizations have continued to call for its implementation alongside other existing frameworks. However, with regard to the Joint Communiqué on Prevention and Response to Conflict-Related Sexual Violence (CRSV), the UN and the Government of Iraq have commenced implementation. As required by the agreement, both the Government of Iraq and the Kurdistan Regional Government have appointed high level focal points on CRSV, and workshops have taken place at both high and technical levels on the Joint Communiqué to kickstart the process. Authorities from both governments are expected to develop implementation plans by autumn 2017, with the support of UNAMI. Furthermore, both parties agreed to cooperate on priority areas such as legislative and policy reform to strengthen protection from sexual violence crimes and to facilitate documentation of such crimes. Both parties also agreed to ensure accountability for sexual violence by strengthening the capacity of national and regional authorities to document, investigate and prosecute sexual violence crimes according to applicable national laws, and to ensure support for survivors of rape. UNAMI/OHCHR has conducted several meetings with the Government advocating to ensure that survivors of human rights violations or abuses, particularly sexual violence survivors, receive adequate support, including psycho-social support and medical care.

As described below, the draft Family Protection Law has remained stalled before the Council of Representatives for over four years, and many of its provisions do not comply with international standards.

Combating crimes of violence committed against women and children remains problematic because Article 409 of the Iraqi Penal Code No. 111 of 1969 permits “honour” as mitigation for crimes of violence committed against family members. There is also reluctance among law enforcement agencies to effectively, promptly, thoroughly, independently and impartially investigate such crimes or to hold perpetrators accountable.

### *6.2. Violence against Women*

Combating crimes of violence committed against women and girls remains particularly problematic. UNAMI/OHCHR continues to advocate for the passage of the draft Family Protection Law (with appropriate revisions as discussed below) and ensure its earliest adoption including measures to



prevent sexual and gender-based violence, offer protection to survivors of SGBV, and ensure accountability of perpetrators of violence, in compliance with international standards, including the Convention on the Elimination of All Forms of Discrimination against Women and other international laws that safeguard women's rights. Unfortunately, the draft Family Protection Law has remained stalled before the Council of Representatives for more than four and a half years. Moreover, in its current iteration, the draft law is designed to protect the family as a whole, rather than the victim of domestic violence. Many provisions in the draft law must be amended to ensure compliance with international standards.

Following UNAMI/OHCHR consultations with women's rights groups and civil society organisations in late 2016, in March 2017 UNAMI/OHCHR proposed amendments to the Council of Representatives to bring the law into compliance with international standards and incorporate relevant comments received from civil society.

Whilst Iraq's Penal Code No. 111 of 1969 includes provisions on physical assault; it lacks *explicit* reference to domestic violence. Though sexual assault is criminalised in the Penal Code, Article 398<sup>18</sup> provides that charges may be dropped if the assailant marries the victim. Defenders of this provision argue that it protects the interests of the victim because it allows the act of marriage to restore honour to the family and thus prevent the risk of an "honour crime" against the victim by her family or community. However, the provision institutionalises the shame and stigma associated with rape and can jeopardise the safety and life of the victim by requiring her to remain married for a minimum of three years to a man who sexually assaulted her. UNAMI/OHCHR is also concerned by Article 41 of the Penal Code, which permits domestic violence by allowing the punishment of a wife by her husband "within certain limits prescribed by law or by custom."

UNAMI/OHCHR provided support to the visit of the Special Representative of the Secretary-General on Sexual Violence in Conflict to Iraq from 25 February to 3 March. During this visit, the mechanisms for implementation of the Joint Communiqué on the prevention and response to conflict-related sexual violence signed by the Special Representative and the Government of Iraq were discussed.

### 6.3. Shelters

On 2 June, the Special Rapporteur on violence against women, its causes and consequences, Ms. Dubravka Šimonović, released her latest report.<sup>19</sup> The Special Rapporteur noted that "shelters and protection orders are survival tools which protect women whose lives are at risk."<sup>20</sup> She also noted the importance of shelters in rebuilding lives and said that shelters should not be impacted by austerity policies. She also addressed the importance of protection orders and the need to treat violence against

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<sup>18</sup> As outlined in Article 398 an assailant accused of rape or sexual assault may be cleared of his crime if he marries the victim. In the absence of any contrary provision, this mechanism can even be implemented if the victim is a minor.

<sup>19</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, 2 June 2017 (Advance Unedited Version), A/HRC/35/30, available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Pages/ListReports.aspx>.

<sup>20</sup> OHCHR, Press release, "States must provide shelters as 'survival tool' for women victims of violence - UN expert," at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21724&LangID=E>.

women as a serious crime. She added that “women have the right to live free from violence. When that right is denied, the full exercise of their other rights is limited.”<sup>21</sup>

UNAMI/OHCHR continued to monitor and advocate for shelters for women who are subjected to domestic and sexual violence. However, there continues to be limited funding or resources to publicly fund shelters for women across Iraq. Further, as described above, Iraqi women have insufficient legal protection mechanisms to safeguard them from domestic violence.

With regards to shelter, and as part of the draft Family Protection Law, UNAMI/OHCHR has emphasised that the government should allow civil society organizations with recognized expertise to establish and run not-for-profit shelters, subject to government licensing and supervision. To date, some Iraqi civil society/not-for-profit organisations are running shelters without government support, relying on private funding and depending on a handful of dedicated volunteers to serve a growing number of women fleeing violence. There are now some shelters in Kirkuk to provide protection for women from Hawija and small initiatives to aid women fleeing ISIL. In Basra, a shelter offers refuge to the victims of sex trafficking who were unjustly incarcerated as “prostitutes” and threatened with “honour killings” upon release by their own families.

#### *6.4. The draft Family Protection Law*

UNAMI/OHCHR remains concerned by the draft Family Protection Law.<sup>22</sup> The first draft of the Law appears to prioritise family reconciliation over justice and protection for the victims of abuse. It does not provide sufficient penalties for offenders, establish obligations for police and prosecutors to respond to domestic violence incidents, or offer long-term protection for victims. The current draft does not go far enough to protect victims and, in fact, could put them in danger if forced to return to family to reconcile. Additionally, the draft law makes no reference to the types of evidence that can be admissible for domestic violence cases.

UNAMI/OHCHR continued to engage with the Council of Representatives, Iraqi ministries, and Iraqi civil society representatives to ensure the draft Law is in accordance with international human rights standards. The draft Law had its second reading in January 2017<sup>23</sup> but progress then stalled. In March, UNAMI/OHCHR submitted written comments on the draft Law to the Speaker of the Council of Representatives, the Women and Children’s Committee (WCC), the Human Rights Committee, the Legal Committee and the Head of the Women Empowerment Directorate in the Office of the Prime Minister. UNAMI/OHCHR also conducted a briefing for the WCC and a training session in an inter-ministerial workshop on international law standards related to domestic violence. In May, UNAMI/OHCHR provided technical support to Iraqi civil society organizations in a series of governorate-level consultations that reviewed the draft Law and provided recommendations. The WCC has still to provide an updated draft Law.

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<sup>21</sup> Ibid.

<sup>23</sup> The first reading took place in March 2015.

## 6.5. Kurdistan Region of Iraq

### 6.5.1. Legal and Policy Framework

A draft amendment to the Law for Combatting Domestic Violence in KR-I No.8 of 2011 was submitted to the Parliament of the KR-I in September 2015. However, no further action has been taken with respect to the amendment due to the deadlock in the KR-I Parliament. The draft amendment would strengthen the current law by including a robust definition of acts of domestic violence, and increasing the penalties and punishments for these crimes. UNAMI/OHCHR, in coordination with civil society actors and duty bearers, has provided comments to ensure that the draft amendment is strengthened in accordance with international human rights law, in particular with respect to penalties and in relation to requirements for marital “reconciliation.”

The second reading of the draft law on Combatting Human Trafficking in the KR-I has not been scheduled due to the impasse in the Parliament.<sup>24</sup>

### 6.5.2. Violence against Women

Violence against women, including domestic violence, remains of concern throughout the KR-I due to traditional practices and attitudes concerning the role of women within the family and in society. Women and girls are subjected to many types of violence and discrimination including physical abuse, “honour” based killings, self-immolation, sexual violence and harassment, as well as inequality and social exclusion.

In March 2017, the General Directorate of Combatting Violence against Women (GDCVAW) released the violence against women (VAW) statistics for November and December 2016 on its website. With the final statistics for 2016, a decrease is observed in the number of cases from 2015 (8,002) to 2016 (7,123). This comes after a general increase between 2013 and 2015. It is not known whether this reflects a decrease in the incidence of violence or only a decrease in reporting. The total of 7,123 VAW cases for 2016 covers the six Directorates of Combatting Violence against Women (Erbil, Sulaymaniyah, Dohuk, Raparin, Garmian, and Soran). This figure includes 119 cases of killing and suicide, 317 cases of burning and self-immolation, 6,579 cases of verbal or physical abuse, and 108 cases of sexual violence. Notably, statistics for January-May 2017 (the most recent available) show an increase in the number of VAW cases (3,789 cases) compared to the same period in 2016 (2,642 cases).<sup>25</sup>

In early 2017, UNAMI/OHCHR learned of a change in the procedure to investigate killings of women – the responsibility to investigate killings of women was transferred back to the Anti-Crime Directorates of the Ministry of Interior (KR-I), from the Office of Combatting Violence against Women (CVAW), which lacked resources and capacity to carry out these investigations promptly.<sup>26</sup> It

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<sup>24</sup> The first reading took place in April 2015.

<sup>25</sup> The official site of General Directorate of Combatting Violence against Women:

<http://bgtakrg.org/index.php/statics> [accessed on 30 June 2017].

<sup>26</sup> Prior to 2015, murders of women were investigated by Anti-Crime Directorates as general criminality. In February 2015, the KR-I MoI transferred the investigation of killings of women from the Anti-Crime Directorates to the Offices of Combatting Violence against Women (CVAW), which are connected to the

is hoped that the greater resources and expertise of the Anti-Crime Directorates will lead to prompt and robust investigations into the killings of women.

### *6.5.3. Shelters*

As of early 2017, a by-law drafted by the Ministry of Labour and Social Affairs (KR-I) that defines the role of relevant government ministries in relation to women's shelters was still pending approval by the Council of Ministers of the Kurdistan Regional Government. The by-law is supposed to supplement the implementation of the Shelter for Women under Threat Instruction No. 2 of 2014, which sets out the minimum standards for the establishment and management of all women's shelters in KR-I.

The financial crisis in the KR-I continues to have a negative impact on the allocation of resources to expand and improve shelters. For example, a newly constructed shelter in Dohuk started to operate in December 2016 after being partially furnished with the help of UN Women and UNHCR. However, furniture and fuel are still lacking. Generally, all shelters complain of a lack of financial resources.

## *7. Rights of ethnic and religious groups*

Iraq's diverse ethnic and religious communities in Iraq continue to face substantial challenges, which threaten their security and undermine their full enjoyment of political and social rights. Throughout the protracted conflict, ISIL continually exposes Iraqi ethnic and religious communities to widespread and systematic attacks, their ultimate aim being the permanent suppression, expulsion or complete destruction of these communities in whole or in part. Such methodical, premediated and intensified attacks against these communities may constitute war crimes, crimes against humanity and possibly genocide, in particular against the Yezidi community.<sup>27</sup> Many communities remain displaced. Ensuring their return to their places of origin, in full dignity and security and respect for their rights according to international humanitarian principles, and restoring and rebuilding these communities, will be essential to restoring trust between communities and thereby supporting a truly inclusive and enduring national reconciliation in Iraq.

UNAMI/OHCHR continued to advocate for and provide technical support to legislative reform on minority rights issues. On 26 April, UNAMI/OHCHR supported the Iraqi Council of Representatives' Human Rights Committee in conducting a public hearing that discussed potential amendments to the draft Law on the Protection of Diversity and the Prevention of Discrimination (the Anti-Discrimination Bill) as part of its regular technical support to Parliament. Members of Parliament,

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Domestic Violence Investigation Court (DVIC) established by the Domestic Violence Law. It was observed that the Offices of CVAW lacked resources and capacity to carry out these investigations promptly. In April 2016, the DVIC pointed out to the Judicial Council that the Domestic Violence Law does not provide for such investigations. Specifically, the DVIC is limited to investigating domestic violence crimes for which the penalty is three years imprisonment or less,<sup>26</sup> whereas murder could incur the death penalty under the Iraqi Penal Code.<sup>26</sup> In response, on 31 July 2016, the Judicial Council issued an order, based on a sample murder case, transferring responsibility to investigate killings of women back to the Anti-Crime Directorates.

<sup>27</sup> Report of the FFM (A/HRC/28/18) submitted to Human Rights Council in March 2015, and the report *A Call for Accountability and Protection: Yezidi Survivors of Atrocities Committed by ISIL*: [http://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport22Aug2017\\_EN.pdf](http://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport22Aug2017_EN.pdf)

representatives of civil society, judges from the Shura Council and the Parliamentary Human Rights and Legal Committee attended the event. Participants emphasised that, in its current iteration, the draft Anti-Discrimination Law requires further clarification through amendments with the aim of including diverse viewpoints and avoiding discriminatory language. Participants provided suggestions for the consideration of the Parliamentary Human Rights Committee, which is tasked with collecting a variety of viewpoints and making recommendations for amendments to the draft bill.

The Parliamentary Human Rights Committee announced that it will deliberate upon the notes and suggestions from this session and reflect these in the second draft of the Anti-Discrimination Bill as appropriate. UNAMI/OHCHR continues to engage with relevant Iraqi civil society groups and the Government of Iraq regarding the final text of the Anti-Discrimination Bill to ensure that it is consistent with international standards.

UNAMI/OHCHR also continues to advocate for a stronger Office on Minorities Issues under the National Reconciliation Committee, reporting to the Office of the Prime Minister. During the reporting period, the Office on Minorities Issues piloted a series of consultations with Christian, Yezidi, Shabak, Turkmen and other groups to identify and assess the diverse needs and concerns affecting groups across Iraq. Based on the outcomes of the consultations, the Office on Minorities Issues then made a series of recommendations to the Prime Minister, who then tasked the Ministry of Education with following up on specific incidents of discrimination in education. To date, UNAMI/OHCHR has not received an update on progress.

### *7.1. Kurdistan Region of Iraq*

The KR-I is home to a number of communities such as the Christian, Yezidi, Shabak, Assyrian, Kaka'i and Turkomen. The influx of IDPs fleeing ISIL has increased their numbers, as well as the number of Sunni Arabs who have fled from Anbar, Ninewa, and other governorates to seek safety from the continuing conflict.

UNAMI/OHCHR has highlighted the importance of education for children and youth as part of post-conflict reconstruction. In May 2016, UNAMI/OHCHR launched a human rights education plan with the Ministry of Education (KR-I) consisting of curriculum reforms and capacity building of teachers and instructors, in particular in relation to humanity studies with a view to integrating definitions of all religions that are officially recognized in the KR-I. The Ministry has launched programming proposed by UNAMI/OHCHR to mainstream key human rights principles of equality and non-discrimination in its humanities' curriculum, and to launch a series of specialized training courses for teachers in Erbil, Dohuk, Halabja, Garmian and Sulaymaniyah.

The adoption of the Law of Protection of the Rights of the Components of the Kurdistan Region of Iraq No. 5 of 2015 was a positive development in ensuring protection of ethnic and religious groups in KR-I. However, UNAMI/OHCHR continues to express concerns that the Law does not criminalize acts such as inciting or committing hate crimes against members of ethnic and religious communities, and does not establish a mechanism or body to ensure implementation of the rights specifically protected by the Law.

## 8. Sexual minorities/LGBTI

Members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community continue to face severe discrimination, threats, physical attacks, kidnappings, and in some cases, killings due to their actual or perceived sexual orientation or gender identity. Throughout the reporting period, UNAMI/OHCHR monitored the situation of the LGBTI community and engaged with the Government of Iraq to promote the protection of LGBTI rights and to investigate incidents of violence against the community.

On 13 January, the body of a man was found at a dumpsite in Binouk neighbourhood in Baghdad. The body bore stab wounds to the stomach and genitals. The victim was allegedly killed because of his perceived sexual orientation. On 28 January, the body of a 22-year-old man was also found with stab wounds in Suq al-Shiyoukh district, 30 km southeast of Nasiriya. Information received by UNAMI/OHCHR indicated that he had also been killed because of his perceived sexual orientation. On 28 February, a tribal leader was shot and killed by unidentified gunmen in Al-Zubair district, Basra, near al-Zubair Bridge. The victim was shot several times in the head. The killing followed the posting on social media of a video that allegedly showed the victim engaged in sex with another man. The man seen in the video with the victim allegedly fled Al-Zubair district after his house was burned by unknown persons.

On 19 March, two youths were killed by unknown perpetrators in the Khamsameel area of Basra city, allegedly for their perceived sexual orientation. The two males, both about 17 years old, were found with gunshot wounds to the head. A letter was allegedly found at the scene that stated, “To Basra’s people, we will kill all men who have long hair and dress like women.” On 10 April, the body of a 22-year-old man was found in Maysan, al-Qadisya quarter, Amara city. The body had multiple stab wounds and had been mutilated, including the genitals. The nature of the injuries and other information received suggest that the man was killed due to his sexual orientation, whether real or perceived.

## 9. Rights of Persons with Disabilities (PWD)

UNAMI/OHCHR continued to engage with disability rights civil society organizations and the Government of Iraq to promote respect for and protection of the rights of persons with disabilities in two key areas: 1) ensuring State compliance with the Convention on the Rights of Persons with Disabilities (CRPD) and other relevant international instruments; and 2) advocating for an independent Commission to ensure compliance with the provisions of the CRPD. However, persons with disabilities (PWD) in Iraq continue to face significant challenges, including social, economic, and political discrimination, all of which are detrimental to the full enjoyment of their rights as Iraqi citizens.

In addition to lacking adequate opportunities and protection, PWDs continue to face a wide array of societal discrimination. The prevailing perception among the public is to treat persons with disabilities as charity rather than as productive members of society. This often leads to isolation of persons with



disabilities and exacerbates negative psychological effects. The Government of Iraq ratified CRPD<sup>28</sup> in January 2012, and adopted the Law No. 38 of 2013 on the Care of Persons with Disabilities and Special Needs,<sup>29</sup> which establishes a Commission to promote the respect for and protection of the rights of persons with disabilities. To date, the Government has not implemented appropriate measures as required by Article 33 of the CPRD.<sup>30</sup> At a minimum, the Government should guarantee protection of and respect for the rights of PWDs and address discrimination and other obstacles to their well-being.

Problematically, the Commission as recognised by the Law continues to operate under the fiscal and administrative authority of the Ministry of Labour and Social Affairs and does not have the impartiality required by Article 33 of the CPRD. Perhaps more concerning is the lack of representation on the Commission of people with disabilities.

### *9.1. Kurdistan Region of Iraq*

On 19 April 2016, the Ministry of Labour and Social Affairs (KR-I) issued instructions in accordance with the Law on the Rights and Privileges of Persons with Disabilities and Those with Special Needs No.22 of 2011, to provide guidance on who is entitled to receive benefits based on their disability. The instructions also set out new percentages for determining the allowances received, although these are less than those set out in the Law. In May 2017, Ministry officials informed UNAMI/OHCHR that 107,983 people were registered with Kurdistan Regional Government as having disabilities.<sup>31</sup> However, approximately 25,000 of these people would lose their monthly benefits because they did not report for medical examinations or otherwise failed to meet the conditions for payment.<sup>32</sup> An amendment proposed by a group of NGOs to strengthen the Law in conformity with human rights obligations had its first reading in the KR-I Parliament on 23 December 2014. However, due to the impasse in the Parliament, no further reading of the amendment has been scheduled.

## **10. Freedom of opinion and expression, and freedom of peaceful assembly/association**

During the reporting period, there were significant challenges to freedom of opinion and expression, as well as freedom of association and assembly. Journalists, media professionals and protestors were intimidated, abducted and in some cases, killed while carrying out their duties. UNAMI/OHCHR received reports that media professionals and protestors were allegedly subjected to attacks by Iraqi security forces, armed groups and unidentified perpetrators, while working or reporting on or participating in demonstrations.

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<sup>28</sup> See UN News Centre ‘UN welcomes Iraqi ratification of pact on rights of persons with disabilities’ at <http://www.un.org/apps/news/story.asp?NewsID=41081#.WWdhN4SGPeY> [accessed on 30 June 2017].

<sup>29</sup> See International Labour Organization <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/96874/114689/F18984083/96874.pdf> [accessed on 30 June 2017].

<sup>30</sup> Article 33 requires state parties to put in place structures for the implementation and monitoring of the Convention at the national level. This includes: designating focal points and, if required, coordination mechanisms; designating or establishing independent mechanisms, and; guaranteeing the participation of civil society.

<sup>31</sup> UNAMI/OHCHR discussion with a senior representative in the Ministry of Labour and Social Affairs.

<sup>32</sup> <http://www.rudaw.net/mobile/english/kurdistan/060520173> [accessed on 30 June 2017].

### *10.1. Freedom of opinion and expression*

On 24 January, a female reporter and a male photographer were allegedly beaten by members of the Iraqi Army's 11<sup>th</sup> Division to prevent them from reporting on the bombing of central Baghdad's al-Nhada Zone on the same day. On 30 April, a journalist from Diwaniya was shot by unknown armed men at his house. The motive for the shooting is not known, however, there is speculation that a previous posting on social media about armed groups had incited public anger and protests.

### *10.2. Freedom of assembly and association*

On 11 February, three protesters were stabbed and killed at Tahrir Square in Baghdad by unidentified persons wearing black uniforms. An Iraqi anti-riot police officer was also reportedly shot and killed by the perpetrators. At least 25 other protestors were wounded in a stampede that ensued. Nine private guards were allegedly arrested, accused of having killed the riot police officer. Protestors were demonstrating to demand an overhaul of the Iraqi electoral system.

On 8 May, unknown gunmen driving three four-wheel drive vehicles abducted seven males including students, workers, and civil activists from their home in Bataween, central Baghdad, and took them to an unknown location. Two of those abducted are reportedly members of the communist party and active at al-Qadisiya University. One abductee is reportedly a freelancer at Tareeq al-Sha'ab newspaper. The remaining abductees were reportedly working in Karrada, Baghdad, with no civil rights involvement. At least some of the abductees are purported to be human rights activists who participate regularly in demonstrations in Tahrir Square. The abductees were allegedly beaten before being released on 9 May following a call by the President of Iraq to security authorities to investigate the incident and to take all necessary action to discover the fate of the abductees. The Iraq Communist Party and civil society activists also conducted an advocacy campaign to search for the abductees.

### *10.3. Freedom of Expression Bill*

UNAMI/OHCHR continued to advocate for amendments to bring the draft Law on Freedom of Expression, Assembly and Peaceful Protest into compliance with international legal standards that are binding on Iraq. UNAMI/OHCHR has reviewed the draft Law and shared recommendations with the Speaker of the Council of Representatives, the heads of the parliamentary political blocs, and the parliamentary committees.

### *10.4. Kurdistan Region of Iraq*

UNAMI/OHCHR continues to receive reports of intimidation of a number of media professionals and limitations on the operation of media channels in the KR-I. UNAMI/OHCHR notes that restrictions have been imposed on journalists and the media without strict consideration of the law and the applicable international and national legal framework. UNAMI/OHCHR will continue to advocate for the unrestricted operation of media.



Freedom of expression in KR-I is underpinned primarily by the Journalism Law No. 35 of 2007.<sup>33</sup> The Journalism Law establishes the role of the Kurdistan Journalists Syndicate in the accreditation of journalists and provides for certain protections and immunities for journalists in their work.<sup>34</sup> In consultation with media and government actors, it has been noted that the mandate of the Syndicate in the Journalism Law only applies to print media. This means that journalists working in other forms of media (especially electronic media) are neither protected by the Law nor subject to its ethical standards for responsible journalism. As a temporary measure, the Shura Council of the KR-I has issued a “Decision to authorize Kurdistan Journalism Syndicate for registering Electronic Newspapers” on 14 February. UNAMI/OHCHR is developing a project to advise on the possible amendment of the law, once Parliament is reactivated, to bring it fully in line with international standards.

On 11 October 2016, the Kurdistan Regional Government Council of Ministers adopted a Regulation on the implementation of the 2013 KR-I Law on Access to Information, as requested by Article 21 of this Law. This Regulation has to be approved by the Shura Council, and will enter into force following its subsequent publication in the Official Gazette, which has not yet occurred.

In late 2016 and early January 2017, protests erupted to voice demands for social equity, including payment of salaries of civil servants, particularly in Sulaymaniyah (with others in Garmian, Halabja, and Raparin). The protests were initially composed mostly of striking teachers, but were joined at various times by other public employees. UNAMI/OHCHR received reports of some arrests and violence, including attacks against striking teachers and their leaders. UNAMI/OHCHR also received reports of a spike in the number of complaints from journalists that security personnel were wrongfully interfering with their work, including by seizure and destruction of equipment and physical violence. The teachers’ organization suspended the protests on 16 January in light of favorable developments, including the resumption of payment of salaries. Smaller protests were noted in February, including in Halabja by students protesting the lack of fuel and supplies in schools and in Sulaymaniyah by retired Peshmerga personnel relating to delays in their salary payments.

UNAMI/OHCHR remains concerned at the lack of progress in the investigation of the alleged murder of Mr. Widad Hussein. Mr. Hussein, a correspondent with Rozh News agency in Dohuk Governorate was abducted by unknown individuals on 13 August 2016. His body was found the same day at a roadside near Dohuk with physical marks on his body that indicate that he was tortured prior to his death. The General Directorate of the Police (KR-I) established a committee to investigate. However, as of the date of reporting, UNAMI/OHCHR has not been informed of any progress in the investigation.

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<sup>33</sup> Other applicable laws and by-laws include the Access to Information Law No. 11 of 2013, Publication Law No. 10 of 1993, Kurdistan Regional Government Regulations for facilitating the implementation of Access to Information Law No. 11 of 2013, Kurdistan Regional Government Ministry of Culture Regulation for organizing the work of TVs and Radios in Kurdistan Region, Kurdistan Journalist’s Retirement Law No. 13 of 2001, Code of Ethics of the International Federation of Journalists, and Kurdistan Journalists Syndicate Law No. 40 of 2004 as amended.

<sup>34</sup>For example, Article 7 stipulates that any intimidation or attack against a journalist shall be punished. Article 8 states that no arrest or interrogation shall be made of any journalist, nor his/her work premises or private residence searched without a court decision.

## 11. Capacity Development Activities

During the reporting period, UNAMI/OHCHR conducted a number of training sessions and consultations on human rights and rule of law issues aimed at a variety of participants, including human rights activists, members of the Iraqi High Commission for Human Rights (IHCHR), senior judicial officials and officials from various Government ministries, members of Iraq's diverse ethnic, religious and linguistic communities, women's rights activists, and academics. The main objective of these activities was to promote respect for and protection of human rights and the rule of law and strengthen skills of officials from Government ministries and members of civil society to apply human rights principles. A selection of the activities undertaken is presented below.

From 2 to 4 May, UNAMI/OHCHR held a two-day training with the Office of IHCHR in Maysan, al-Muthana Governorate in Southern Iraq. Topics included human rights concepts, principles, monitoring and reporting mechanisms. The training aimed to increase the understanding of human rights principles and monitoring for IHCHR staff members and Community Police Officers in Maysan. Topics included; basic human rights concepts, principles and commitments of the Iraqi state; the human rights framework (origin, important conventions, UN bodies and mechanisms); and ways to use the UN mechanisms (filing petitions, preparing shadow reports etc.). Other sessions covered Iraq's international obligations and mechanisms for monitoring human rights violations. The training also addressed the role of Community Police in protecting human rights and drafting reports of human rights violations.

On 21 May, UNAMI/OHCHR, in collaboration with the U.S. Consulate General in Basra, conducted a training on human rights and human trafficking in Basra for members of civil society groups and officials from the Government. The training addressed the human rights framework on fighting human trafficking. The outcome was the establishment of a network consisting of members of civil society groups and officials from Government to promote the awareness of trafficking.

### *11.1. Kurdistan Region of Iraq*

In January and February, UNAMI/OHCHR presented a training on human rights principles in eight sessions for approximately 470 new recruits and senior officials at the Asayish Academy in Erbil. Topics included the history and evolution of human rights, major human rights instruments, and best practices relating to law enforcement and counter-terrorism.

On 30 January, UNAMI/OHCHR supported a specialized training course on "Proposal Writing" in Sulaymaniyah for representatives of civil society organizations and representatives of the IBHR. The training course aimed to build the capacity of participants to devise, draft and submit human rights project proposals for potential funding and other support.

From 1 to 7 March, UNAMI/OHCHR held four training sessions for students of the Faculty of Law and International Relations of Cihan University in Erbil. Under the title "United Nations mechanisms for the protection of human rights in time of peace and conflict." The sessions focused on United Nations human rights mechanisms of protection, including in armed conflict, and child rights. Ten female and ten male students participated in the training.

On 1 April, UNAMI/OHCHR delivered a presentation on “The role of law students in protecting and promoting human rights” for 60 students of the Faculty of Law and Political Sciences of Raparin University in Sulaymaniyah Governorate.

From 2 to 5 April, UNAMI/OHCHR delivered a four-day training course for 680 police officers under the auspices of the Directorate of Training and Rehabilitation in the General Directorate of Police in Sulaymaniyah. The course aimed at reinforcing the understanding of law and order, human rights and fundamental freedoms, how to deal with demonstrations, and respect for the principles of legality, necessity, and non-discrimination.

On 16 April, UNAMI/OHCHR held a seminar for students of the Faculty of Law, Diplomacy and International Relations of Human Development University in Qaradagh District, Sulaymaniyah on “United Nations mechanisms for the protection of human rights and the role of UNAMI/OHCHR in the Promotion and Protection of Human Rights.” The seminar was attended by 23 female and 28 male students.

Throughout the reporting period, UNAMI/OHCHR distributed more than 6275 booklets of the nine core International Human Rights Treaties in the Kurdish language to civil society actors, academic institutions, government bodies, and other partners.

## 12. National Human Rights Institutions and UPR Action Plans

### *12.1. Support to the Iraqi High Commission for Human Rights*

From January to March, as was the case with the selection of the first group of Commissioners concluded in 2012, UNAMI/OHCHR provided technical support to the Committee of Experts tasked with selecting a new batch of commissioners for the Iraqi High Commission for Human Rights (IHCHR). As a voting member of the Committee, UNAMI/OHCHR attended regular meetings and provided guidance on the selection process, within the framework of national and international standards, and provided technical assistance to the Secretariat of the Committee.

On 26 January, at a meeting of the Committee of Experts, several members of the Committee objected to UNAMI/OHCHR’s role as a voting member and asserted that UNAMI/OHCHR’s presence was in violation of Law No.53 of 2008, which established the IHCHR. Shortly afterwards, on 02 February, in response to this development, civil society representatives meeting with UNAMI/OHCHR raised their concerns regarding the selection process, and the sharing of a list of proposed candidates supported by various political blocs in the Council of Representatives. Their concerns were that the process of selection had become politicized and has compromised the impartiality and independence of possible future commissioners. UNAMI/OHCHR decided to suspend its participation on the Committee on 12 March as several members of the Committee would not permit UNAMI/OHCHR to exercise its responsibilities as a full voting member according to law.

In response to the claim that the presence of UNAMI/OHCHR on the Committee of Experts was illegal, the States’ Shura Council issued a statement of legal opinion in favour of the UNAMI/OHCHR position and reconfirming that it had equal and full voting rights in the Committee of Experts. However, the Council of Representative voted on 29 April in favour of amending Law No.53 of 2008 and remove UNAMI/OHCHR from its position as a full member of the Committee and

limited UNAMI/OHCHR's future role within the Committee to general monitoring, consultation and technical support.

Nevertheless, UNAMI/OHCHR continued to support the IHCHR as an institution by providing technical assistance to the Parliamentary Committee tasked with re-organizing the IHCHR Secretariat. In January, an expert consultant hired in collaboration with the United Nations Office of Project Services (UNOPS) began assessing the IHCHR as an institution with a view to identifying changes to increase its capacity. Thirty-six meetings were held with the IHCHR staff and other interlocutors in Baghdad, Najaf, Basra, Maysan, Thi-Qar, Samawa, Kirkuk and Ninewa (Ninewa and Kirkuk meetings were held in Erbil) to collect information on the structure of the IHCHR, roles and responsibilities of various IHCHR staff members, and gaps in skill sets. The consultant is compiling a report containing findings and recommendations on ways to re-structure the IHCHR Secretariat. The final report will be presented to the Parliamentary Committee tasked with re-structuring the IHCHR Secretariat.

### *12.2. UPR Action Plans*

On 10-11 May, UNAMI/OHCHR, in collaboration with the Ministry of Justice, held a two-day consultation to review the draft National Action Plan (NAP) based on recommendations from the 2014 Iraq Universal Periodic Review (UPR) session in the United Nations Human Rights Council. Thirty-five representatives from Iraqi ministries and civil society organizations participated in the consultation. During the consultation, working group sessions discussed the NAP, which was drafted by the Ministry of Justice. Each working group reviewed and debated the NAP and presented recommendations and comments on the NAP in the plenary session. These comments and recommendations will be compiled by the Ministry and incorporated into the draft NAP.

In the concluding recommendations, the Ministry of Justice requested that UNAMI/OHCHR continue its support during the entire process of implementation of the NAP and to be a part of the inter-ministerial committee to oversee its implementation. On 23 May, the Council of Ministers approved the NAP. On the same date, an inter-ministerial committee was formed with UNAMI/OHCHR as an observer and provider of technical assistance to the committee.

On 6 June, UNAMI/OHCHR held a meeting with the Deputy Minister of Justice to discuss steps towards the implementation of the NAP. The Deputy Minister requested that technical support and training be provided to members of the inter-ministerial committee for effective implementation of the NAP. UNAMI/OHCHR will continue providing technical assistance and necessary training to committee members.

In the KR-I, a Steering Committee, co-chaired by the Kurdistan Regional Government and the Independent Board of Human Rights (IBHR) and comprising representatives of civil society, developed (in late 2016) a regional human rights action plan (RHRPA) for the implementation of the UPR recommendations relevant for KR-I. UNAMI/OHCHR provided technical assistance to support and facilitate this process. The draft RHRPA prepared by the Steering Committee is yet to be endorsed by the Kurdistan Regional Government.