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**SEEKING ACCOUNTABILITY AND DEMANDING CHANGE:
A REPORT ON WOMEN'S HUMAN RIGHTS VIOLATIONS IN IRAQ
UNDER THE UN CONVENTION AGAINST TORTURE**

Submitted by:

The Organization of Women's Freedom in Iraq (OWFI)
Baghdad, Iraq

The International Women's Human Rights Clinic
City University of New York (CUNY) School of Law
New York, New York

MADRE
New York, New York

ACRONYMS

ACR - The High Council for Reintegration

CAT - Convention against Torture

CEDAW - Committee on the Elimination of Discrimination against Women

CIDT - Cruel, Inhuman, or Degrading Treatment

CRC - Convention on the Rights of the Child

CUNY - City University of New York School of Law

HRC - Human Rights Council

HRW - Human Rights Watch

ICCPR - International Covenant on Civil and Political Rights

OHCHR – Office of the High Commissioner for Human Rights

UNHCR - United Nations High Commissioner on Refugees

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I. ARTICLE 1, 2, 5, 13, 14 & 16: IRAQ MUST ACT WITH DUE DILIGENCE IN PREVENTING VIOLATIONS OF THE CONVENTION BY ENACTING PROPER LEGISLATION, PREVENT THE TORTURE AND CIDT PERPETRATED AGAINST WOMEN AND CHILDREN, AND PROVIDE VICTIMS AND SURVIVORS OF TORTURE ACCESS TO FULL AND ADEQUATE REDRESS, INCLUDING ACCESS TO PROTECTION MECHANISMS, AND A PROMPT AND IMPARTIAL INVESTIGATION INTO VIOLATIONS.

The Convention against Torture and Cruel, Inhuman, or Degrading Treatment recognizes that no one shall be subjected to torture or other forms of cruel, inhuman or degrading treatment because all people have rights that are guaranteed to them based on the inherent dignity of the human person.¹ Torture is defined in Article 1 as, “any act that by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as...punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”² States parties must ensure that all acts of torture are classified offenses under its criminal law.³ The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.⁴ Each state party shall make these offenses punishable by appropriate penalties which take into account their grave nature.⁵ While the Government of Iraq has codified torture as a crime, there is no explicit coverage for LGBT persons.

The Iraqi government must take all appropriate measures to establish authority over offenses that have occurred in any territory under its jurisdiction or where the perpetrator or the victim is a national of Iraq.⁶ Article 10 states that “each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. This must be enforced regardless of the station or position of the person.” The Iraqi government has a duty to properly train personnel and officials about torture and to make sure that they are not the perpetrators of such acts.⁷ According to Article 14 of the Iraqi Constitution, “Iraqis are equal before the law without discrimination based on gender, race, ...economic or social status.”⁸

¹ Convention against Torture (CAT), U.N. Doc. A/39/46, (Dec.10, 1984).

² *Id.* at Article 1.

³ *Id.* at Article 4.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at Article 5.

⁷ *Id.* at Article 10.

⁸ *Id.* at Article 14.

A. Sexual Violence as Torture in Iraq

Gender-based violence and discrimination against women and girls has been a longstanding, pervasive problem in Iraq. Rape, while criminalized in the Penal Code, continues to be met with impunity, in part due to discriminatory provisions in the law. The Penal Code states that perpetrators of crimes involving sexual violence may be exonerated if they marry their victim, even after having been sentenced, including in cases where the victim is under age 18.⁹ In tandem with cultural norms related to “honor,” this provision increases pressure on victims to marry their rapists. The law also prolongs victims’ endangerment in a provision mandating perpetrators to remain married to their victims at least three years to avoid reinstatement of the rape charges.¹⁰ There are no reliable estimates of the incidents of rape in Iraq, and no metrics on the effectiveness of Government enforcement of the Penal Code.¹¹

Other forms of discrimination in the legal and criminal justice system, along with social stigma tied to rape, limit women’s recourse in the case of gender-based violence. A 2012 United Nations Development Program (UNDP) report found instances of rape in Iraq in which the families of the rape victim encouraged that victim to marry her aggressor.¹² When these women refused these marriages, some families pressured judges to force the marriage between survivor and rapist.¹³ Rape victims in Iraq are also unlikely to press charges against perpetrators and pursue legal remedies due to societal pressures and norms.¹⁴ Consideration of a victim’s sexual history in rape cases is permitted under Iraqi law.¹⁵ Women who report sexual violence face harassment and abuse from Iraq’s police force, which is male-dominated; and may even be accused of adultery or prostitution.¹⁶ Tellingly, more than 97% of women in one survey said they would not be willing to report gender-based violence to the police because of fear of damaging their reputation or the belief that Iraq’s law enforcement agencies would not be able to solve the problem.¹⁷

⁹ Despite the Coalition Provisional Authority’s 2003 elimination of Iraq Article 427 Penal Code 1969, the termination of rapists’ sentences upon marriage to their victim still occurs, and is also permitted under Article 398 of the Penal Code, which was not covered by the CPA decision. Dr. Bishri Al Obaidi, *Clarification of the Penal Code Regarding Crimes and Violations against Women*, MOHAMAH.NET (March 26, 2015), available at

<http://www.mohamah.net/answer/31532/%D8%AA%D9%88%D8%B6%D9%8A%D8%AD-%D9%85%D9%88%D9%82%D9%81-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D8%B9%D9%82%D9%88%D8%A8%D8%A7%D8%AA-%D8%A7%D9%84%D8%B9%D8%B1%D8%A7%D9%82%D9%8A-%D8%A7%D9%84%D8%AC%D8%B1%D8%A7%D8%A6%D9%85-%D8%A7%D9%84%D8%AA%D9%89-%D8%A7%D9%86%D8%AA%D9%87%D8%A7%D9%83%D8%A7-%D8%A7%D9%84%D9%85%D8%B1%D8%A3%D8%A9> ; see also, United Nations High Commissioner for Refugees

(UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *157 n. 887 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>

¹⁰ Human Rights Watch, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad* Vol. 15, No. 8, at 15 (July 2003), available at <http://www.hrw.org/sites/default/files/reports/iraq0703.pdf>

¹¹ U.S. Department of State, *2012 Country Reports on Human Rights Practices – Iraq* at 40 (April 19, 2013), available at http://photos.state.gov/libraries/iraq/5/Reports/2012_human_rights_report_english.pdf

¹² *Id.*

¹³ U.S. Department of State, *2012 Country Reports on Human Rights Practices – Iraq* at 40 (April 19, 2013).

¹⁴ *Id.*

¹⁵ Human Rights Watch, *Iraq- At a Crossroads: Human Rights In Iraq Eight Years After the US-led Invasion*, 28, available at <http://www.hrw.org/sites/default/files/reports/iraq0211W.pdf>

¹⁶ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *36 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>

¹⁷ United Nations Assistance Mission in Iraq (UNAMI), “*Women in Iraq Factsheet*,” 2 (Mar. 2013), available at <http://unami.unmissions.org/LinkClick.aspx?fileticket=xqx9gxy7Isk%3D&tabid=2790&language=en-US>

The Committee has also repeatedly noted with concern situations of widespread rape and other sexual violence in armed conflict.¹⁸ Article 2(2) states that there “are no exceptional circumstances, including war or political instability that may invoke justification for torture.”¹⁹ The use of sexual violence as a tool of armed conflict constitutes intentionally inflicted harm for coercive and intimidating purposes.

The conflict has exacerbated the situation, especially in areas controlled by the Islamic State in Iraq and Levant (“ISIL”). The Human Rights Watch reports that Iraqi forces are illegally detaining thousands of Iraqi women “subjecting many to torture and ill-treatment, including the threat of sexual abuse.”²⁰ Armed groups, including ISIL, also perpetrate the systematic sexual abuse on large scale. Human Rights Watch documented stories of women and girls who had escaped ISIL captivity who were subjected to sexual violence, including rape and sexual slavery, on a systematic basis by ISIL militants.²¹ Women and girls have also become tools to feed the sectarian war between the Sunni and the Shiite militias. Militants from both sects kidnap and rape women in attempts to escalate the war or in retaliation.²² For instance, reports show that Shiite militias serving in the Iraqi police raped and tortured Sunni women.²³

Where female victims might otherwise be treated for the physical and mental effects of sexual assaults or rape, the possibility of stigma and shame often stops them from talking with family members, thus making it difficult for them to access any treatment, as they often would have to rely on relatives to reach necessary services.²⁴

i. National policy forbids Iraqi NGOs from providing shelter to women fleeing violence in Iraq

In the context of the current conflict and in light of the absence of Government-sponsored services and legal remedies to address gender-based violence and discrimination, local Iraqi NGOs are at the forefront of providing the necessary services to protect and heal victims. Even before ISIL’s invasion, Iraqi NGOs and women’s rights defenders seeking to assist women and girls who encountered regular harassment, arbitrary surveillance, and warrantless searches. Many women’s human rights organizations, especially those who shelter women fleeing violence, are forced to operate illegally and clandestinely.

¹⁸ CAT, Concluding Observations of the Committee against Torture: Burundi , 37th sess., U.N. Doc. CAT/C/BDI/CO/1 ¶ 11 (Feb. 15, 2007); CAT, Concluding Observations of the Committee against Torture: Chad, 42nd sess., U.N. Doc. CAT/C/TCD/CO/1 ¶ 20 (June 4, 2009). CAT, Concluding Observations of the Committee against Torture: Mexico, 37th sess., U.N. Doc. CAT/C/MEX/CO/4 ¶ 19 (Feb. 6, 2007).

¹⁹ CAT. art 2(2).

²⁰ Human Rights Watch, *Iraq: Security Forces Abusing Women in Detention*, (Feb. 2014), available at <https://www.hrw.org/news/2014/02/06/iraq-security-forces-abusing-women-detention>

²¹ Human Rights Watch, *UN: Sexual Violence a ‘Tactic of War’: Secretary General’s Report Highlights Rape, Sexual Slavery, Forced Marriage*, (Apr. 14, 2015), available at <https://www.hrw.org/news/2015/04/14/un-sexual-violence-tactic-war>

²² The Guardian, *Hidden victims of a brutal conflict: Iraq’s women*,

²³ Dahr Jamail, *Maliki’s Iraq: Rape, Executions and Torture*, Aljazeera English, (Mar. 19, 13), available at <http://www.aljazeera.com/humanrights/2013/03/201331883513244683.html> ; See also Ali Khedery, *Iran’s Shiite Militias Are Running Amok in Iraq*, Foreign policy, (Feb. 19, 2015), available at <http://foreignpolicy.com/2015/02/19/irans-shiite-militias-are-running-amok-in-iraq/>

²⁴ Amnesty International, *Escape from Hell: Torture and Sexual Slavery in Islamic State Captivity in Iraq*, at 13-14 (Dec. 2014), available at https://www.es.amnesty.org/uploads/media/Escape_from_hell_-_Torture_and_sexual_slavery_in_Islamic_State_captivity_in_Iraq_-_English.pdf

In central and southern Iraq, such shelters operate in an undefined legal framework and the NGOs who run them are cautious about publicizing their services. In practice, the Government has criminalized NGO-run shelters that provide protective services to victims fleeing violence, through fines, shelter raids, and arrests of service providers.²⁵ According to the U.S. State Department, the Government also fails to provide systematic protections or services to victims of labor trafficking and forced prostitution, and criminalizes victims of forced prostitution.²⁶ Independent shelters and their service providers are not only vulnerable to prosecution by the State; they also lack protection from threats of violence by extremist groups.²⁷

Only in the region of Kurdistan have local NGOs been permitted to run and maintain shelters for women fleeing violence. In 2011 the Kurdish Regional Government (KRG) passed Domestic Law No. 8, the Law against Domestic Violence in the Kurdistan Region of Iraq, which calls for the creation of women's shelters and provided space for collaboration with civil society.²⁸

In February 2014, the Iraqi Government announced the passage of the *Iraq National Action Plan, for the Implementation of the United Nations Security Council Resolution 1325 Women, Peace and Security (2014-2018)*. The plan calls for the creation of shelter for women escaping violence, stating that the Government of Iraq should create an “[a]mendment of the Act of the Federal Ministry of Labor on shelters, taking the example of Law 2/2011 in [Kurdistan].”²⁹ The plan also calls for the establishment of “shelters and safe spaces for psychosocial support and free legal services for women victims of violence in accordance with international standards,”³⁰ with the “expected result” that “women will receive better services by NGOs and institutions they meet.”³¹

Local women's civil society organizations have been helping to shelter, protect, and care for women who have fled sectarian and domestic violence, has unique access to victims of gender-based violence, whose stories help illustrate the scope, breadth, and seriousness of this issue in Iraq. Service providers have catalogued many of the organization's experiences advocating for shelter. Their experiences illustrate the dire need for independently run shelters for women fleeing ISIL and gender-based violence; the obstacles they face in establishing shelters; as well as the ability of grassroots women's groups like OWFI to advocate for changes to the shelter policy. For example:

- In the Dohuk region, OWFI reached an agreement with the local government for OWFI

²⁵ Interview with representatives of three local Iraqi women's organizations, Istanbul, Turkey, Jan. 2014 (on file with authors).

²⁶ U.S. Department of State, *Country Narrative Trafficking in Persons Report 2012–Iraq*, (2012), available at <http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm>

²⁷ Interview with representatives of three local Iraqi women's organizations, Istanbul, Turkey, Jan. 2014 (on file with authors). See also, U.S. Department of State, *Country Narrative Trafficking in Persons Report 2012–Iraq* (2012).

²⁸ In 2011, the Kurdistan region of Iraq adopted a domestic violence law that prohibits all forms of gender-based violence. According to the law, the Kurdistan Regional Government is responsible to “provide shelter to the victims of domestic violence.” The Regional Government agreed to allow Kurdistan NGOs to run shelters for women fleeing violence. Currently there are 7 shelters in Kurdistan, which include four government-run shelters, one run by a political party, and two shelters run by local NGOs.

²⁹ *Iraq National Action Plan, for Implementation of the United Nations Security Council Resolution 1325 Women, Peace and Security 2014-2018*, Pillar 2 – Protection and Prevention, Strategic Objective #1, Specific Actions #4, p. 53.

³⁰ *Id.* at Strategic Objective #2, Specific Actions #3, at 54.

³¹ *Id.*

to care for 128 women and girls who escaped from ISIL;

- In Karbala, OWFI worked with the local Government and teachers to overcome documentation issues, and set up caravans to transport children from a camp sheltering Turkmeni refugees from ISIL to classes with local teachers who speak the Turkmeni dialect, who are refugees themselves;
- Also in Karbala, OWFI reached an agreement with the local government allowing them to create a pilot program for an alternative to shelters;

ii. Women denied access to government-issued identification documents

This Committee has condemned laws and practices that restrict women's freedom of movement, including requirements that women obtain permission from third parties to obtain passports or travel documents,³² but Iraq continues to be in violation of its obligations in this regard. Iraqi women cannot obtain legal identification in the absence of a male family member to verify their identity. They are unable to obtain a passport and travel outside the country without the approval of their husband or other close male relative.³³ This dramatically heightens the dangers facing women who are fleeing from conflict-related violence. Without such identity, women cannot travel, find housing, obtain employment, get health care services, or enroll into education institutions. In such cases, women may become stateless and more vulnerable to violence and discrimination.

Women have difficulty obtaining other identity documents without the presence of a male relative. In Iraq, the Civil Status Identification Document is required to access public services, including food assistance, healthcare, employment, education and housing; as well as to obtain a passport and work. An Iraqi woman can only be granted a Civil Status ID if a male relative vouches for her.³⁴ This poses a crushing obstacle for women and girls who seek services after fleeing conflict related violence or gender-based violence. For example, staff members from OWFI, an Iraqi NGO, who were assisting a female Iraqi minor, whose entire family had been murdered, were told that she could not obtain identification documentation without the presence of male relatives until she reached 18 years of age. This left her unable to attend school, obtain social care or access a range of other public services.³⁵

OWFI staff members have observed the effects of lack of documentation on the women and

³² UN Human Rights Committee, General Comment 28, U.N. Doc. CCPR/C/21/Rev.1/Add.10 ¶ 16 (2000); *see also*, UN Human Rights Committee, *Concluding Observations on the Islamic Republic of Iran*, U.N. Doc. CCPR/C/IRN/CO/3, ¶ 9 (2011); stating, "The State party should amend the Civil Code and further amend the draft Family Protection Law, to ... (g) remove the requirement for a husband's approval when a woman intends to leave the country; ... and (i) remove the power of a man to prohibit his wife from entering employment."

³³ Interview with Iraqi women's organizations staff members, Istanbul, Turkey, Jan. 2014 (on file with authors); U.S. Department of State, Iraq, *Country Reports on Human Rights Practices for 2010*, 29 (Apr. 8, 2011), *available at* <http://www.state.gov/documents/organization/160462.pdf> (noting the MOI Passport office maintains a policy that women must have the consent of a close male relative to obtain a passport).

³⁴ Abeer Mohammed, *Passport Misery Highlights Iraqi Women's Plight*, 29 June 2011, *available at* <http://www.refworld.org/docid/4e1c7a912.html>

³⁵ This case was documented in detail on a television show, in which the Minister of Women's Affairs and other officials were interviewed. Al Sumaria News, Press Releases, *Kalam Leaks Uncovers the Story of Aseel*, (Aug. 16, 2013), *available at* <http://www.alsumaria.tv/Press-Releases/907/kalam-leaks-on-alsumaria-uncovers-the-story-of-a-d>

children living in Iraq's displaced persons camps. They find that identification is one of the most pressing concerns for residents. Organizations providing shelter for women and girls also faces additional risks from the discriminatory bars on obtaining identification, as a resident's lack of documentation can put a shelter at risk, even where agreements with local law enforcement permit shelters to operate, due to a cultural tendency to equate a lack of documentation with trafficking and prostitution.³⁶ Lack of identification also means that women cannot work or even enroll in training or educational programs such as computer classes, while undocumented children cannot attend school.³⁷

Only one city in Iraq took initiative to address the issue. The city of Dohuk in the autonomous region of Kurdistan adopted a policy of issuing temporary identification cards to displaced persons based on the same standards used in the city. These temporary identification cards could be issued for a period of three years. If after three years, the temporary identification card holder is not found or recognized by a family member, the Governorate could replace the temporary identification card with a permanent one. This policy is an excellent way of ensuring that victims of sexual violence who do not possess identification documents are able to receive basic services.

B. The Pending Domestic Violence Draft Law in Iraq

Article 2, paragraph 1 provides that each State shall take effective legislative, administrative, and judicial measures to prevent torture within its borders.³⁸ This includes both constant review of current laws to ensure they are sufficient in creating compliance with the convention and replacement of any law that is not effectively eradicating torture and CIDT.³⁹

In January 2015, the House of Representatives and the President of the Republic approved the Protection from Domestic Violence Draft Law. Articles 7 and 8 states that the Ministry of the Interior is to provide full protection for domestic violence victims and witnesses through its officers and shelters in cases of domestic violence and to provide the necessary supplies for them.⁴⁰ Chapter 6, Article 20 states that the Protection from Domestic Violence Department or its affiliated offices when receiving a complaint orally or written of the occurrence of domestic violence must...provide shelter for the survivor with her children in one of the shelters for the abused in (24) twenty-four hours.⁴¹ However, only if passed and effectively implemented, which proves to be a challenge, can the Protection from Domestic Violence Law enhance victims' services and access to justice for domestic violence victims.

Domestic violence receives widespread societal acceptance in Iraq. Article 41 of the Penal Code reinforces such cultural attitudes by allowing a husband to "punish" his wife "within certain [undefined] limits prescribed by law or by custom."⁴² Additionally, marital rape is not

³⁶ Interview with OWFI activist, Istanbul, Turkey, Jan. 2015 (on file with authors).

³⁷ Interview with OWFI activist, Istanbul, Turkey, Jan. 2015 (on file with authors).

³⁸ CAT, art. 2.

³⁹ CAT, General Comment No. 2: Implementation of Article 2 by States Parties, U.N. Doc. CAT/C/GC/2 ¶ 3 (2008).

⁴⁰ *Protection from Domestic Violence Law*, The Federal Judiciary, January 2015, <http://www.iraqja.iq/view.1717/>

⁴¹ *Id.*

⁴² Samer Muscati, *Women in Iraq: Losing Ground* at 88, in, *THE UNFINISHED REVOLUTION, VOICES FROM THE GLOBAL FIGHT FOR WOMEN'S RIGHTS*, ED. MINKY WORDEN (2012).

recognized by the penal code.⁴³ Lawyers pursuing cases of domestic violence face harassment, while a lack of adequately trained police and judicial personnel further impedes efforts to bring perpetrators to justice.⁴⁴

In 2011 the Kurdish Regional Government (KRG) passed Domestic Law No. 8, to address domestic violence. The law criminalizes various forms of gender-based violence, including physical, psychological and verbal abuse of girls and women; female genital mutilation; spousal rape and threats, and child abuse. Despite this key milestone, domestic violence remains a widespread problem in the Kurdistan region.⁴⁵ While the Iraqi Constitution expressly prohibits “all forms of violence and abuse in the family,”⁴⁶ the central Government of Iraq has failed to enact comprehensive national legislation against domestic violence. Domestic violence is not criminalized under the Iraqi law.⁴⁷ The government’s failure to adequately prevent, prosecute and protect victims from domestic violence has left women vulnerable to further domestic violence and reprisals.⁴⁸

Traditional social attitudes and practices reinforce acts of domestic violence against women and girls. Experts have determined that violence within families is grossly underreported in Iraq.⁴⁹ One study placed the prevalence of women suffering physical violence at the hands of their husbands at roughly one in five,⁵⁰ while another found that 56.4% of Iraqi men believe they have a right to beat their wife if she disobeys.⁵¹ Even where law enforcement does act, legal personnel may be harassed and threatened by victims’ family members seeking to terminate legal proceedings.⁵²

Women contemplating divorce in situations of domestic violence are faced with the harsh realities of life as a divorcee, which weigh disproportionately heavy on women. Less likely to have education or professional work experience, particularly in Iraq’s rural regions, many women are dependent on male relatives for survival.⁵³ Many opt to stay in abusive relationships rather than risk violent reprisals, crippling social stigma and financial isolation created by leaving their violent spouses.⁵⁴

⁴³ U.S. Department of State, *2012 Country Reports on Human Rights Practices – Iraq* at 40 (April 19, 2013).

⁴⁴ *Id.*

⁴⁵ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *35 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>

⁴⁶ Iraqi Constitution, Article 29, Section (4), available at http://www.iraqnationality.gov.iq/attach/iraqi_constitution.pdf

⁴⁷ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *34 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>

⁴⁸ Inter-Agency Information and Analysis Unit (IAU), *Violence against Women in Iraq Factsheet* at 2 (November 2010), available at http://www.jauiraq.org/documents/1149/Violence%20against%20women%20Factsheet_Final.pdf

⁴⁹ Amnesty International Stop Violence against Women Project, *Iraq: Decades of Suffering, Now Women Deserve Better* at *15 (February 22, 2005), available at <http://www.amnesty.org/en/library/asset/MDE14/001/2005/en/6f025a30-d539-11dd-8a23-d58a49c0d652/mde140012005en.pdf>

⁵⁰ World Health Organization, *Republic of Iraq – Iraq Family Health Survey Report IFHS 2006/2007*, at 25, available at http://www.who.int/mediacentre/news/releases/2008/pr02/2008_iraq_family_health_survey_report.pdf (noting that 21.2% of a sample of married women aged 15-49 suffered physical violence at the hands of her husband.)

⁵¹ United Nations Assistance Mission in Iraq (UNAMI), “*Women in Iraq Factsheet*” 3 (March 2013), <http://www.iau-iraq.org/documents/1864/Woman-Factsheet.pdf>

⁵² United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *34 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>

⁵³ *Id.* at 35.

⁵⁴ Heartland Alliance, *Institutionalized Violence against Women and Girls: Laws and Practices in Iraq*, at 29 (2011), available at <http://www.heartlandalliance.org/international/research/institutionalized-violence-against-women-and-girls-in-iraq-laws-and->

C. Trafficking and Sexual Exploitation in Iraq

i. Trafficking and sexual exploitation of women and girls in Iraq has worsened in the context of the conflict

Iraq serves as a major source and destination for trafficked women and children in the region; weak governance and low enforcement of anti-trafficking laws have allowed Iraq to become a regional trafficking hub.⁵⁵ Ongoing instability and increased refugee mobility within Iraq and in neighboring Syria has exacerbated this trend,⁵⁶ and the number of Iraqi victims is growing.

The failure of the Government of Iraq to adequately respond to trafficking is evidenced by its public statistics and stagnated legislative efforts within recent years. Despite an increase in documented reports of trafficking by both civil society organizations and international agencies,⁵⁷ the number of official cases to prosecute trafficking offenders has actually decreased.⁵⁸ One of Iraq's proposed solutions to curtail the trafficking issue, the creation and deployment of an "anti-trafficking hotline," has yet to result in a single phone call.⁵⁹ And despite the passage of the 2012 Trafficking in Persons Act No. 28, Iraq's "comprehensive anti-trafficking bill," legislation implementing and operationalizing the bill has yet to successfully make it out of committee.⁶⁰

Girls as young as 11 or 12 have been sold for as much as \$30,000 dollars, while older women are sold for as little as \$2,000 dollars.⁶¹ One young woman reported that her mother and two brothers made it clear that they intended to sell her to a brothel via an arranged marriage, just as they had sold her older twin sisters.⁶² When she told a friend in the police force to raid her home and the nearby brothel, police arrested her, and she spent the next two years in prison, despite not having been charged with any crime.⁶³

This practice of arresting and incarcerating victims of trafficking and sexual exploitation when they seek out police protection only further victimizes women and girls in Iraq. Victims of

[practices_english.pdf](#)

⁵⁵ Organization of Women's Freedom in Iraq (OWFI), *Ending Violence and Discrimination against Iraqi Women and Girls* at *3 (Feb. 2014).

⁵⁶ U.S. Department of State, *Trafficking in Persons Report 2013 – Iraq*, (Jun. 2013), available at <http://www.state.gov/documents/organization/210739.pdf>

⁵⁷ See, e.g., OWFI, *Ending Violence and Discrimination against Iraqi Women and Girls* at *2; U.S. Department of State, *Trafficking in Persons Report 2014 – Iraq* (Jun. 2014) at *3, available at <http://www.refworld.org/docid/53aab9ea3.html>; Human Rights Watch, *At A Crossroads; Human Rights in Iraq Eight Years after the US-Led Invasion* at *4 (February 2011), available at <http://www.refworld.org/publisher.HRW,,IRO,4d64e1d82,0.html>

⁵⁸ U.S. Department of State, *Trafficking in Persons Report 2013 – Iraq* (Jun. 2014) at *3 ("The absence of prosecution efforts in 2013 is a significant change from the previous reporting period in which authorities reported 13 trafficking investigations and seven trafficking prosecutions; five of the prosecutions from 2012 remained pending at the end of this reporting period.")

⁵⁹ *Id.* at 6.

⁶⁰ CEDAW, *Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Iraq*, U.N. Doc. CEDAW/C/IRQ/CO/4-6 ¶ 32 (Mar. 2014).

⁶¹ Human Rights Watch, *At A Crossroads; Human Rights in Iraq Eight Years after the US-Led Invasion*, *12, (Feb. 21, 2011), available at <https://www.hrw.org/report/2011/02/21/crossroads/human-rights-iraq-eight-years-after-us-led-invasion>

⁶² Rania Abouzeid, *Iraq's Unspeakable Crime: Mother's Pimping Out Their Daughters* (Mar. 7, 2009), available at <http://content.time.com/time/world/article/0,8599,1883696,00.html?xid=newsletter-weekly>

⁶³ *Id.*

trafficking are incarcerated, fined, or otherwise penalized for acts committed as a direct result of being trafficked.⁶⁴ This is done even in situations where there is evidence suggesting the woman or girl was forced or coerced into the unlawful activity.⁶⁵ An example of this occurs when a girl, forced to work in a brothel for one year against her will, is convicted and sentenced to six months' imprisonment upon reporting the situation to local authorities.⁶⁶ Women and girls have no official authority to turn to when they are forced and coerced into prostitution; many are incentivized to keep quiet, traffickers promising these women assistance with their release if they refuse to discuss their cases with authorities.⁶⁷

In terms of rehabilitative, psychological, or medical services being offered to the victims of trafficking or sexual exploitation, the Government of Iraq continues to fall behind on its obligations under international law. Although a government-sponsored shelter for victims of trafficking has been opened in Baghdad,⁶⁸ this is insufficient to provide for all of the women and girls who need assistance. Moreover, the opening of this solitary shelter does not remedy the continued prohibition on shelters operated by women's civil society organizations in Central and Southern Iraq,⁶⁹ these organizations, already providing the needed medical and shelter services to many, are forced to do so entirely underground to avoid prosecution.⁷⁰

It is these very same women's civil society organizations that have taken on the burden of trying to adequately and effectively identify, document, and assist victims of trafficking and sexual exploitation. One such organization is OWFI, an organization that has long noted and fought for more action from the Government of Iraq on the trafficking issue.⁷¹ Within the past few months, OWFI has organized an "Anti-Trafficking Coalition" to meet and discuss methods to document

⁶⁴ U.S. Department of State, *Trafficking in Persons Report 2013 – Iraq*, 204 (June 2013); Human Rights Watch, *At A Crossroads; Human Rights in Iraq Eight Years after the US-Led Invasion*, *14-16, (Feb. 21, 2011), available at <https://www.hrw.org/report/2011/02/21/crossroads/human-rights-iraq-eight-years-after-us-led-invasion> ("Iraqi authorities prosecute and convict trafficking victims for unlawful acts committed as a result of being trafficked . . . Apart from document and passport fraud, victims are also jailed for prostitution, while authorities ignore their abusers.").

⁶⁵ Heartland Alliance, *Institutionalized Violence against Women and Girls: Laws and Practices in Iraq*, at 19-20 (2011), available at http://www.heartlandalliance.org/international/research/institutionalized-violence-against-women-and-girls-in-iraq-laws-and-practices_english.pdf; Human Rights Watch, *At A Crossroads; Human Rights in Iraq Eight Years after the US-Led Invasion*, *14-16, (Feb. 21, 2011), available at <https://www.hrw.org/report/2011/02/21/crossroads/human-rights-iraq-eight-years-after-us-led-invasion>

⁶⁶ U.S. Department of State, *Trafficking in Persons Report 2013 – Iraq*, (June 2013).

⁶⁷ Heartland Alliance, *Institutionalized Violence against Women and Girls: Laws and Practices in Iraq*, at 19 (2011), available at http://www.heartlandalliance.org/international/research/institutionalized-violence-against-women-and-girls-in-iraq-laws-and-practices_english.pdf

⁶⁸ CEDAW, *Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Iraq*, U.N. Doc. CEDAW/C/IRQ/CO/4-6 ¶ 31 (Mar. 2014).

⁶⁹ Interview with representatives of three local Iraqi women's organizations Jan. 2014, (on file with authors). See also, U.S. Department of State, *Country Narrative Trafficking in Persons Report 2012–Iraq*, (2012), available at <http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm> (The US State Department recommends that Iraq de-criminalizes NGO shelters that provide assistance to victims of sex trafficking). United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *38 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf> Although Iraq's proposed *Iraq National Action Plan, for the Implementation of the United Nations Security Council Resolution 1325 Women, Peace and Security (2014-2018)* intends to ratify a change allowing NGOs to operate shelters, the plan has yet to be implemented. See *infra* Section I, Part D on Gender-Based Violence.

⁷⁰ Presentation, Yanar Mohammed of OWFI, *Women Confronting ISIS: Local Strategies and States' Responsibilities*, (Mar. 6, 2015) ("We don't want to be working as outlaws and we have such a terrible need for [shelters]."), available at https://www.youtube.com/watch?v=dTruqKKAqEA&list=PLT4-4QC1WZOoDRb_e0DZJPBR0TthwsiAV&index=2

⁷¹ See, e.g., OWFI, *Ending Violence and Discrimination against Iraqi Women and Girls*, at *2.

instances of trafficking and push for legal reform.⁷² At the first meeting of the Anti-Trafficking Coalition, only 5 partner organizations were in attendance; at the most recent meeting of the Coalition, over 37 partner organizations were present, all committed to addressing and ending the trafficking epidemic in Iraq.⁷³ The Coalition came up with a resolution, one that was proposed to the Government of Iraq, outlining the steps that must be taken to adequately and effectively address trafficking in Iraq including: better prevention and documentation, effective prosecution of perpetrators, and provision of assistance to victims.⁷⁴ As of yet, there has been no official implementation of these suggestions.

ii. Trafficking and sexual exploitation of women and girls in Iraq under ISIL occupation

In early August, Zainab Hawa Bangura, the UN Special Representative of the Secretary-General on Sexual Violence, and Nickolay Mladenov, the Special Representative of the Secretary-General on Iraq, issued a joint statement confirming around “1,500 Yazidi and Christian” women had been kidnapped by ISIL and subsequently forced into sexual slavery.⁷⁵ In September of 2014, the director of the UN’s human rights office in Iraq estimated the number of ethnic minority women and girls abducted by ISIL militants in and around the Nineveh province alone could be as high as 2,500.⁷⁶ He further estimated that 1,000 of them have already been married off to ISIL fighters while the rest, having refused ISIL’s demand of religious conversion, either remained in captivity or had been sold to the highest bidder.⁷⁷

Recent reports have identified unmarried captives who had not yet given birth as the first targets forcibly sold or awarded to other ISIL fighters.⁷⁸ Interviews with escaped Yazidi women include new details such as the occurrence of forced group weddings between captive women and ISIL fighters.⁷⁹ A group of British female jihadists has also recently come forward and claimed to run several of the ISIL brothels where these women are kept.⁸⁰ This female force, known as the “al-Khansaa Brigade,” allegedly maintain the sexual slavery operation and have reported processing over 3000 women already.⁸¹ Notably, ISIL has not hidden away from this rising evidence of sexual slavery and trafficking of women and girls. In one of ISIL’s recent issues of its online magazine, *Dabiq*, in an article titled *The Revival of Slavery*, ISIL’s propaganda division

⁷² Interview with OWFI activists, New York, NY, March 2015 (on file with authors).

⁷³ Interview with OWFI activists, New York, NY, March 2015 (on file with authors).

⁷⁴ Interview with OWFI activists, New York, NY, March 2015 (on file with authors) (notably, one particular suggestion involved getting women’s medical and social support covered by social insurance coverage).

⁷⁵ Office of the High Commissioner for Human Rights, *Iraqi Civilians Suffering ‘Horrific’ Widespread and Systemic Persecution*, at *1 (Aug. 25, 2014), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14961&LangID=E> ; United Nations News Service, *‘Barbaric’ Sexual Violence Perpetrated by Islamic State Militants in Iraq*, at *1 (Aug.13, 2014), available at <http://www.un.org/apps/news/story.asp?NewsID=48477#.VG-o5kv3cnds>

⁷⁶ Vice News, *Women Abducted by the Islamic State Feared Trapped in Sexual Slavery*, (Sept. 10, 2014), available at <https://news.vice.com/article/women-abducted-by-the-islamic-state-feared-trapped-in-sexual-slavery>

⁷⁷ *Id.*

⁷⁸ See Human Rights Watch, *Iraq: Forced Marriage, Conversion for Yezidis*, (Oct. 12, 2014), available at <http://www.hrw.org/news/2014/10/11/iraq-forced-marriage-conversion-yezidis>

⁷⁹ UNICEF United Kingdom, *Horrible accounts of child rights violations emerge from survivors of violence in north-western Iraq*, (Aug. 20, 2014), available at <http://www.unicef.org.uk/Media-centre/Press-releases/Horrifying-accounts-of-child-rights-violations-emerge-from-survivors-of-violence-in-north-western-Iraq/>.

⁸⁰ Al Arabiya News, *UK Female Jihadists Run ISIS Sex-Slave Brothels* at *3 (Sept. 12, 2014), available at <http://english.alarabiya.net/en/variety/2014/09/12/UK-female-jihadists-run-ISIS-sex-slave-brothels.html>

⁸¹ *Id.*

acknowledged and embraced the practice of sexual slavery and trafficking as a means to eradicate “pagan” Yazidi women and girls from the Muslim world.⁸²

On March 13, 2015, the UN Office of the High Commissioner for Human Rights (OHCHR) released its own official report documenting the human rights abuses being engaged in by ISIL.⁸³ In its section on sexual and gender-based violence, OHCHR noted consistent stories by girls and unmarried women who escaped from ISIL recounting the systematic and mechanical process by which they were raped and sexually enslaved.⁸⁴ All women and girls were numbered or recorded on lists and evaluated for their beauty; women reported being forced to smile while ISIL fighters took photographs during inspection.⁸⁵ Girls as young as six-years-old have come forward with reports of being raped.⁸⁶ In light of these extensive human rights violations being committed by ISIL, OHCHR made several recommendations to the Government of Iraq on how to properly respond and protect against further violations as much as possible, in particular focusing on transparent and effective investigation and prosecution of perpetrators and the provision of essential services such as psycho-social and medical care.⁸⁷

Women and girls who have escaped from ISIL have reportedly received little to no medical services or counseling at the shelters and camps they are guided to, thus ensuring their continued physical and psychological damage will (especially from experiences such as having to carry their rapist’s child).⁸⁸ This reality only highlights further the significant lack of resources and shelters available to victims of trafficking and sexual exploitation in Iraq, a reality that will only continue to worsen as the ISIL conflict continues and more women and girls are kidnapped, trafficked, and exposed to sexual violence.

It is of critical importance to remember the danger posed to these women extends even beyond the immediate violence committed by ISIL soldiers. Because of the legal recognition and cultural practices in Iraq attached to being a victim or presumed victim of sexual violence, these women face further potential harm from their families upon return to their communities, even if the threat of ISIL is ultimately removed. Proper and effective access to shelter and social services will not just be needed for the immediate conflict, but for a long period of time post-conflict as well.

Many organizations, including the Organization of Women’s Freedom in Iraq (OWFI), have documented stories from women and girls who have been kidnapped, sold into sexual slavery, and repeatedly subjected to sexual violence under ISIL. The following are but a few examples since ISIL’s invasion:

⁸² Robert Mackey, *Islamic State Propagandists Boast of Sexual Enslavement of Women and Girls*, (Oct. 14, 2014).

⁸³ OHCHR, *Report on the Human Rights Situation in Iraq*, U.N. Doc. A/HRC/28/18 (Mar. 2015).

⁸⁴ *Id.* at ¶ 37.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.* at ¶ 76.

⁸⁸ UNICEF United Kingdom, *Horrible accounts of child rights violations emerge from survivors of violence in north-western Iraq*, (Aug. 20, 2014), available at <http://www.unicef.org.uk/Media-centre/Press-releases/Horrible-accounts-of-child-rights-violations-emerge-from-survivors-of-violence-in-north-western-Iraq/>; See also Presentation, Syrian and Iraqi women’s organizations, Istanbul, Turkey, Jan. 2015 (notes on file with authors).

- In Mosul, a 12-year-old girl was taken from her family and passed between multiple ISIL soldiers who repeatedly raped her. Eventually, she was taken to the hospital where she was treated for internal bleeding for over five days. After recovering, she was taken back by ISIL and married off to an ISIL soldier.⁸⁹
- In a displacement camp near Dohuk, an OWFI representative met with five Yazidi women who had escaped from ISIL. One woman was only 15 and kept smiling. When asked why, she responded that she had been hurt so bad she had lost the ability to feel pain, to feel hurt. She had been sold to over 10 ISIL soldiers. The first time she was sold to another man, she did not understand why she was unwanted. All the men treated her the same though: after they finished their daily prayer, she would be raped.⁹⁰
- In Mosul, a woman and her sister: “The man who was holding us said that either we marry him and his brother or he would sell us. At night we tried to strangle ourselves with our scarves. We tied the scarves around our necks and pulled away from each other as hard as we could, until I fainted. Two girls who were held with us woke up and stopped us and then stayed awake to watch over us. When they fell asleep at 5am we tried again, and again they woke up and stopped us.”⁹¹
- Another woman and her sister, held for a month by ISIL before escaping: “They kept bringing prospective buyers for us but luckily none of them took us because we are not beautiful and we were always crying and holding on to each other. We tried to kill ourselves and the man who was holding us promised not to separate us, but he was becoming more and more impatient. He wanted to get rid of us, to unload the responsibility for us on to someone else, and if we had not managed to escape it was only a matter of time before we would have ended up married by force or sold to some men, like many other girls.”⁹²
- In Adnaani, a woman described her experience where an “emir” wrote the names of 14 girls on small pieces of paper and called two ISIL fighters to pick one piece of paper. The names on the slips were called out and the girls, 15 and 18, were taken into a back room and “married” (forcibly raped). The emir and another Imam stood outside the room laughing while the girls inside were screaming.⁹³

While the Trafficking in Persons Act No. 28, passed by the Government of Iraq in 2012, is an improved piece of legislation over its predecessors⁹⁴ and has been recognized as a more modern,

⁸⁹ Presentation, Syrian and Iraqi women’s organizations, Istanbul, Turkey, Jan. 2015, (notes on file with authors).

⁹⁰ Presentation, Yanar Mohammed of OWFI, *Women Confronting ISIS: Local Strategies and States’ Responsibilities*, (Mar. 6, 2015), available at https://www.youtube.com/watch?v=dTruqKKAqEA&list=PLT4-4QC1WZOsdRb_e0DZJPBR0TthwsiAV&index=2

⁹¹ Amnesty International, *Escape from Hell: Torture and Sexual Slavery in Islamic State Captivity in Iraq*, at 8 (Dec. 2014), available at https://www.es.amnesty.org/uploads/media/Escape_from_hell_-_Torture_and_sexual_slavery_in_Islamic_State_captivity_in_Iraq_-_English.pdf

⁹² *Id.* at 6.

⁹³ OHCHR, *Report on the Human Rights Situation in Iraq* at U.N. Doc. A/HRC/28/18 ¶ 38 (Mar. 2015).

⁹⁴ Office of Rule of Law, U.S. Embassy, Baghdad, Iraq, *Translation - Law No. 28 of 2012 Combating Trafficking in Persons* (April, 2012), available at http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=94253&p_country=IRQ&p_count=232&p_classification=04&p_classcount=6

“comprehensive anti-trafficking bill,”⁹⁵ it has not been effectively operationalized. As reported by civil society organizations operating in Iraq, there have been several problems with the Government of Iraq’s implementation and enforcement of the Act since its passage in 2012.

In terms of targeting perpetrators of trafficking and sexual exploitation, there has been minimal enforcement by the Government of Iraq to implement the provisions described within the Trafficking in Persons Act. While the government has conducted some investigations and has gone through at least one prosecution under the Act, Iraqi courts have so far not issued any rulings in human trafficking cases.⁹⁶ Additionally, the Government of Iraq does not effectively investigate or punish Government officials who face allegations of complicity in trafficking-related offenses.⁹⁷ Moreover, prosecutors and judges are still too often uneducated about the law and courts continue to prosecute trafficking victims under laws criminalizing prostitution.⁹⁸

Since the passage of the Trafficking in Persons Act in 2012, the Government of Iraq has also been slow to provide protection and rehabilitative services to victims of trafficking as described in the Act⁹⁹ or providing assistance to those civil society organizations already providing victim services. Some Iraqi police centers have been given specialists to assist women and girls who are victims of trafficking, but the number of victims assisted and the type of assistance is unclear.¹⁰⁰ The Government of Iraq has not documented, or at least made publicly available, the official statistics on the number of trafficking persons in Iraq or those who have received assistance since the passage of the Trafficking in Persons Act.¹⁰¹ There is also no information as to whether the government has designated a specific budget for victim protection or assistance.¹⁰² All available care is still being administered primarily by local women’s organizations, organizations forced to operate underground because the Government of Iraq continues to criminalize their operations.¹⁰³ This is particularly problematic as the Trafficking in Persons Act explicitly notes provision of a “temporary shelter” as a necessary service to be provided to victims of trafficking.¹⁰⁴ The Government of Iraq has remained silent on whether it plans to develop or implement procedures

⁹⁵ CEDAW, *Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Iraq*, U.N. Doc. CEDAW/C/IRQ/CO/4-6 ¶ 32 (Mar. 2014). See Iraq State Report, *Fifth Periodic Report*, ICCPR, U.N. Doc. CCPR/C/IRQ/5 ¶ 55 (Dec. 2013) (noting how the Act “designates trafficking in persons as a punishable offence and covers all aspects thereof, listing the various forms of trafficking, defining the concept of perpetrators of acts of trafficking and specifying the penalties therefor and the manner in which its victims should be treated.”).

⁹⁶ U.S. Department of State, *Trafficking in Persons Report 2014 – Iraq* (Jun. 2014).

⁹⁷ *Id.*; Interview with OWFI activist, Istanbul, Turkey, Jan. 2015, (on file with authors) (noting the common practice of Iraqi trafficking houses to be connected to government officials. These government officials provide quasi-legitimacy and “protection”; in return, a virgin girl (usually a teenager) is reserved for their personal use.)

⁹⁸ Presentation, Iraqi Judge, Istanbul, Turkey, Jan. 2015, (notes on file with authors); see also, Human Rights Watch, *World Report 2014: Iraq*, (2014), available at <http://www.hrw.org/world-report/2014/country-chapters/iraq>

⁹⁹ Office of Rule of Law, U.S. Embassy, Baghdad, Iraq, *Translation - Law No. 28 of 2012 Combating Trafficking in Persons*, at *7 (noting services to be offered including medical examination, linguistic assistance, legal assistance, protection and privacy, financial assistance and a temporary shelter, social, psychological, and physical rehabilitation in specialized centers or care houses, and temporary entry and residence visas if necessary.)

¹⁰⁰ U.S. Department of State, *Trafficking in Persons Report*, at 191 (2012).

¹⁰¹ Presentation, Syrian & Iraqi women’s organizations, Istanbul, Turkey, Jan. 2015 (on file with authors).

¹⁰² Presentation, Syrian and Iraqi women’s organizations, Istanbul, Turkey, Jan. 2015 (notes on file with authors).

¹⁰³ UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *38 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf> ; Although Iraq’s proposed *Iraq National Action Plan, for the Implementation of the United Nations Security Council Resolution 1325 Women, Peace and Security (2014-2018)* intends to ratify a change allowing NGOs to operate shelters, the plan has yet to be implemented. See *infra* Section I, Part D on Gender-Based Violence.

¹⁰⁴ Office of Rule of Law, U.S. Embassy, Baghdad, Iraq, *Translation - Law No. 28 of 2012 Combating Trafficking in Persons*, at *7.

for referrals of identified trafficking victims from government first responders to these organizations that have experience in providing legal, medical, or psychological services once the ban on shelter operation is lifted.¹⁰⁵

The Government to Iraq's inability to effectively operationalize the provisions stated in its Trafficking in Persons Act No. 28 continues to be a source of criticism for Iraq within the international community.¹⁰⁶

D. Honor Killings In Iraq

During Iraq's Universal Periodic Review with the UN Human Rights Council in 2010, various nations expressed concern about "honor" killings in Iraq and called for the Government to eliminate legal provisions allowing mitigated sentences for honor-based violence and murder.¹⁰⁷ In its 2012 report, the UN Refugee Agency pointed to these same legal provisions and to cultural acceptance of distorted notions of "honor" as reasons to grant Iraqis' claims for assistance or protection in asylum.¹⁰⁸ Other treaty bodies, most recently CEDAW and CRC, similarly condemned the practice of "honor" killings and violence, and Iraq's discriminatory legal provisions mitigating sentences for "honor" crimes. They recommended repeal of all laws supporting mitigation, and called for increased identification, prosecution, and punishment of perpetrators.¹⁰⁹

In Iraq, support for "honor" killing is written directly into law. Several Iraqi Penal Code provisions, including Article 128,¹¹⁰ Article 130,¹¹¹ and Article 409,¹¹² allow for mitigated

¹⁰⁵ Presentation, Syrian & Iraqi women's organizations, Istanbul, Turkey, Jan. 2015 (on file with authors).

¹⁰⁶ See, e.g. Draft Report of the Working Group on the Universal Periodic Review of Iraq (Unedited Version), *Iraq*, A/HRC/WG.6/20/L.12 at *15-16 (November 5, 2014). Recommendations for Iraq on trafficking including "127.137. Adopt measures aiming at combating effectively the trafficking of persons and the exploitation of women and children (Togo); 127.139. Establish effective mechanisms to investigate, prosecute and punish trafficking offenders (Israel); 127.140. Take appropriate measures for ensuring prosecution for trafficking (Kazakhstan); 127.141. Take additional measures to combat trafficking in persons, in particular women and children and impose appropriate sanctions against perpetrators (Bahrain)".

¹⁰⁷ Report of the Working Group on the Universal Periodic Review of Iraq, *Iraq*, A/HRC/14/14 at ¶¶ 26, 30, 81 (68- 71), 82 (10-14) (Mar. 15, 2010).

¹⁰⁸ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *37-38 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>; see also United Kingdom: Home Office, *Operational Guidance Note – Iraq* at 31-32 (Aug. 2014), available at <http://www.refworld.org/docid/53fc86ea4.html>

¹⁰⁹ Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Iraq*, U.N. Doc. CEDAW/C/IRQ/CO/4-6 ¶¶ 26, 27 (a) (Mar. 2014); Committee on the Rights of the Child (CRC), *Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq*, U.N. Doc. CRC/C/IRQ/CO/2-4 ¶¶ 25, 26 (Mar. 3, 2015).

¹¹⁰ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *159 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf> (noting "Article 128(1) of the Law No. (111) of 1969, Penal Code, reads: 'Legal excuse either discharges a person from a penalty or reduces that penalty. Excuse only exists under conditions that are specified by law. Notwithstanding these conditions, the commission of an offence with honourable motives or in response to the unjustified and serious provocation of a victim of an offence is considered a mitigating excuse.'").

¹¹¹ *Id.* at *159 n. 918 ("Article 130 of the Penal Code reads: 'If there exists a mitigating excuse for a felony for which the penalty is death, the penalty shall be reduced to life imprisonment or imprisonment for a term of years or detention for a period of not less than 1 year. If the penalty is life imprisonment or imprisonment for a term of years; the penalty shall be reduced to a period of detention of not less than 6 months unless otherwise stipulated by law.'").

¹¹² *Id.* at *159 n. 919 ("Article 409 of the Penal Code reads: 'Any person who surprises his wife in the act of adultery or finds his girlfriend in bed with her lover and kills them immediately or one of them or assaults one of them so that he or she dies or is left permanently disabled is punishable by a period of detention not exceeding 3 years. It is not permissible to exercise the right of

sentences for violent acts, including homicide, committed for so-called “honourable motives.”¹¹³ These legal mechanisms allow “honor” killings to continue with impunity. The U.S. Department of State reported that “honor” killings were a serious problem throughout all of Iraq in 2013.¹¹⁴ Despite Kurdistan’s passage of a law against domestic violence, human rights advocates documented dozens of cases of abuse and killings of women by their male family members in the Kurdistan Region in 2013.¹¹⁵

“Honor” killings are notoriously difficult to document and record in Iraq, in part due to social norms and customs that hinder open discussion of such acts.¹¹⁶ Further obscuring the extent of the violence is the fact that police are unwilling to investigate cases due to their own social acceptance of “honor” killings.¹¹⁷ Facing immense social pressure and the potential for serious retaliation by victim’s family members, medical examiners often refuse to register violent deaths in cases where a body bears the marks of violence, and instead label the deaths as suicides.¹¹⁸ The United Nations Assistance Mission for Iraq (UNAMI) reported on several “honor” killings that occurred between July and December, 2013, and the subsequent lack of adequate criminal investigation in their wake.¹¹⁹ These incidents included:

- The burning death of a 24 year old woman in the bathroom of her home in Kirkuk on July 24, 2013, reported as an accident by her brother, who is an intelligence officer;
- The discovery of a young woman’s body by police officers in Kirkuk on August 19, 2013 with severe head and neck wounds;
- The burning death of a 21 year old woman on September 22, 2013, reported as a suicide by her father;
- The discovery of a young woman’s body in Kirkuk on October 8, 2013, handcuffed and beheaded, bearing the signs of additional torture;
- The self-attestation of a man arrested for killing his sister on November 19, 2013 that the murder was justified as “cleansing of my honor”;
- The shooting of a 17 year old woman on December 1, 2013, which police reported to media was an accidental shooting, despite sources in the community saying the woman was killed by her brother for reasons of honor;

legal defense against any person who uses this excuse nor do the rules of aggravating circumstance apply against him.”).

¹¹³ *Id.* at *159 n. 920 (noting the lack of a definition for “honourable motives” under the Penal Code results in a “very broad mitigating excuse.”).

¹¹⁴ U.S. Department of State, Bureau of Democracy, Human Rights & Labor, *Iraq 2013 Human Rights Report*, 49 (2014), available at <http://www.state.gov/documents/organization/220565.pdf>

¹¹⁵ Human Rights Watch, *World Report 2014: Iraq*, (2014), available at https://www.hrw.org/sites/default/files/related_material/iraq_5.pdf

¹¹⁶ UNAMI Human Rights Office, *Report on Human Rights in Iraq: January - June 2014*, 14 (August, 2014), available at http://www.ohchr.org/Documents/Countries/IO/HRO_Jan-Jun2014Report_en.pdf

¹¹⁷ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *37 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>

¹¹⁸ The Kvinna till Kvinna Foundation, *Violence against Women in Iraq*, at 2 (2014), available at <http://kvinnaillkvinna.se/en/files/qbank/217b4c71837fac172fabebfc299f755b.pdf>

¹¹⁹ UNAMI, *Report on Human Rights in Iraq: July-December 2013*, at 15 (June 2014).

- The suspension of a defendant’s sentence in Basra on December 29, 2013 who admitted to attempted murder of his sister with a sword and iron bar for “reasons of honor.”¹²⁰

In addition to being denied protection by the legal system, women threatened with honor crimes are also left with limited recourses should they try to flee. Options may include shelters and even prison, though neither is a sustainable long-term setting.¹²¹ Any available shelters that can provide support are under-resourced, and shelter employees may even become targets of violence themselves for providing services to potential honor crime victims.¹²² Further limiting options for victims is the fact that in Central and Southern Iraq, women’s shelters are outlawed.¹²³ Women’s organizations seeking to help potential victims of “honor”-based crimes are forced to run their operations underground.¹²⁴

Official lack of response, however, is only part of the problem; women in Iraq still face repression on the basis of gendered stereotypes. Cultural norms that encourage “honor” killings prevent women from reporting gender-based violence due to fears of indifference or violent retaliation.¹²⁵ Women have stated that the mere reporting of sexual abuse and violence itself can trigger honor-based crimes and retaliation - this threat of violence further prevents victims from pursuing justice.¹²⁶

Local civil society organizations working on women’s issues report that within Iraqi society, terminology distinguishes between *forms* of honor killings, with some being so commonly accepted as to be considered a “private” action done by families, or an action beyond reproach. Local women’s human rights advocates explain that according to cultural norms held by those who justify violence in the name of “honor,” one exercises a personal right if they kill a female relative who has purportedly brought shame to their family. This killing is accepted as a familial right. The perpetrator is therefore not even usually charged, and any police report is left anonymous.¹²⁷ If one exercises a “public right,” however, that involves killing a woman and someone else (such as a lover) outside of one’s family; this form of honor killing is recognized as requiring arrest, but still falling within the category of being justified by “honorable motives”

¹²⁰ *Id.*

¹²¹ UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *37 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>

¹²² *Id.* at *38.

¹²³ Although Iraq’s proposed plan for implementing U.N. Security Council Resolution 1325 calls for the opening of shelters, the plan has yet to be implemented or funded; *Iraq National Action Plan, for Implementation of the United Nations Security Council Resolution 1325 Women, Peace and Security 2014-2018*, Pillar 2 – Protection and Prevention, Strategic Objective #2, Specific Actions #3, p. 54.

¹²⁴ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *38 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf>

¹²⁵ Interview with OWFI activist, Istanbul, Turkey, Jan. 2015 (on file with authors).

¹²⁶ United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq* *34-36 (2012), available at <http://www.refworld.org/pdfid/4fc77d522.pdf> ; Amnesty International, *Escape from Hell: Torture and Sexual Slavery in Islamic State Captivity in Iraq*, at 14 (Dec. 2014), available at https://www.es.amnesty.org/uploads/media/Escape_from_hell_-_Torture_and_sexual_slavery_in_Islamic_State_captivity_in_Iraq_-_English.pdf

(noting the “catch-22 situation” situation for women victims of ISIL. abduction and sexual violence– “Their relatives are their only source of support, but because of stigma and shame, they do not feel able to share with them what happened, or to seek their help in accessing the services they urgently need.”).

¹²⁷ Interview with three OWFI representatives, Istanbul, Turkey, Jan. 2015 (on file with authors).

and mitigated under Iraqi Penal Law.¹²⁸ Even where families do not want to commit violence against their relatives, there is extreme social pressure for them to engage in “honor” killing. Families that have refused to kill a relative who has supposedly brought “shame” to their family have themselves become targets.¹²⁹

OWFI, as a women’s civil society organization that helps shelter, protect, and care for women who flee the threat of honor crimes, has access to many of those stories that go unreported and undocumented. The following are but a few examples of the numerous documented instances of honor crimes and honor killings that OWFI has collected:¹³⁰

- In the summer of 2014, in the Anbar region of Iraq, a 17-year-old girl was rumored to have had sexual relations. Tribal officials ordered the girl killed. Members of the girl’s family pushed her into a nearby river containing a whirlpool that sucked her body down to the bottom of the river. The girl’s father sent divers down to the bottom of the river to recover the girl’s body. Upon discussion with OWFI representatives later on, the divers noted the floor bed looks “like a graveyard,” with the faces on the bodies desiccating over time.
- In the fall of 2014, in Basra, a young woman was told that she would be forced to marry her cousin against her will. The woman ran away with her lover to escape this marriage. After a month or two, this woman called her sister back home and told her where she was. The woman’s brother-in-law overheard this conversation, beat up the sister to discover the woman’s location, and then brought the woman back to Basra. The woman was killed by family members who slit her throat with a knife.
- In 2013, in Baghdad, a woman was raped by police officers coming home one night. The girl’s father and uncle decided to kill the girls to protect the family’s honor and did so with a machine gun. The police report officially states the cause of death as an “accidental killing,” the uncle having been “cleaning his gun” at the time it went off.
- In 2011, in the Dohuk region, a young man and woman were in love. The man asked the woman’s family for permission to marry the girl, but the family said no. The two young people ran away together and got married. The couple eventually returned to the tribe and were shot and killed for challenging the norms of the community.

Distorted norms of “honor” recognized both in Iraq’s Penal Code and within Iraqi society pose an additional threat to women and girls in the context of the ongoing conflict in Iraq. For example, women or girls who have been abducted by ISIL fighters are assumed to have been subjected to sexual violence. Due to the legal framework and cultural attitudes supporting violence against and killing of these women in the form of honor crimes, women fleeing ISIL face the risk of being subjected to honor killings.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

Some Iraqis have called for the government to bomb the ISIL-controlled schools and hospitals holding women and girls who have been kidnapped and likely raped, in order to kill the imprisoned women and thus “save the honor” of the people from these besieged towns.¹³¹ Reports have also emerged of women committing suicide after being abducted by ISIL and raped, “because they couldn’t stand the shame” they would bring to their families and communities.¹³²

Notably, the extent of sexual and other violence committed by ISIL has compelled some limited changes to commonly held beliefs about sexual violence and “honor.” Within the Yazidi community, a community ravaged by ISIL with hundreds of women kidnapped and sold into sexual slavery, a fatwa has been issued by religious leaders to *not* engage in honor crimes against women who escape and return from ISIL.¹³³ Members of the Yazidi community are being encouraged to ignore the concerns of “shame” these women and girls may carry, and instead recognize them as victims and welcome them back into their family and support units.¹³⁴ As noted by one Iraqi woman advocate, “[i]t’s harder to blame a woman for having been raped when it’s happening to so many.”¹³⁵

II. Recommendations to the Government of Iraq

1. The Government of Iraq should immediately repeal its policy of prohibiting local non-governmental organizations from operating displaced persons shelters which provide assistance to women and children fleeing conflict-related violence, attempted honor killings, domestic violence and human trafficking.
2. The Government of Iraq should immediately repeal its policy of requiring the presence of a male relative for women obtaining national identity documents, and place special emphasis on ensuring documents for women and girls displaced by ongoing sectarian violence and for victims of domestic violence.
3. The Government of Iraq should take all appropriate measures to prevent gender-based violence and impunity for such violations, monitor and document instances of gender-based violence, and investigate and punish violence committed by State and non-State actors, ensuring women and girls’ access to justice, with special considerations to ensure that national laws are compatible with State party obligations under the CAT;
4. The Government of Iraq should immediately repeal all discriminatory and dangerous Penal Code articles, such as Article 41 which permits spousal abuse, including rape, and Article

¹³¹ Human Rights Council, Joint Written Statement Submitted by the MADRE and Women’s International League for Peace and Freedom (WILPF), *The threat of ISIL and the situation of Women in Iraq* U.N. Doc A/HRC/S-22/NGO/13, 3 (Sept. 2014).

¹³² Zahra Radwan and Zoe Blumenfeld, *Surging Violence against Women in Iraq*, FOREIGN POL. IN FOCUS, (Jun. 26, 2014), available at <http://fpif.org/surging-violence-women-iraq/>

¹³³ Interview with OWFI activist, New York, NY, March 2015 (on file with authors); Amnesty International, *Escape from Hell: Torture and Sexual Slavery in Islamic State Captivity in Iraq*, at 13 (Dec. 2014), available at https://www.es.amnesty.org/uploads/media/Escape_from_hell_-_Torture_and_sexual_slavery_in_Islamic_State_captivity_in_Iraq_-_English.pdf

¹³⁴ Interview with OWFI activist, New York, NY, March 2015 (on file with authors).

¹³⁵ Yifat Susskind, *What will it take to stop Isis using rape as a weapon of war?*, Guardian, (Feb. 17, 2015), available at <http://www.theguardian.com/global-development/2015/feb/17/disarm-isis-rape-weapon-war>

that eliminate charges for perpetrators of crimes of sexual violence where they subsequently marry their victims; the Government should also define and criminalize marital rape in the Penal Code, taking all appropriate measures to disseminate the new legal standard at all levels of law enforcement and across Iraqi society at large;

5. The Government of Iraq should take all appropriate measures to ensure adequate resources are allocated and effective measures adopted to ensure that victims of gender-based violence, in particular sexual violence, have access to comprehensive, gender-sensitive medical treatment, mental health care, and psychosocial support;
6. The Government of Iraq must repeal any legal provisions permitting or justifying violence against women on the basis of “honor,” in particular Articles 128, 130, and 409 of the Iraqi Penal Code, which allow for sentence mitigation for violence committed for supposed “honorable motives.”
7. The Government of Iraq must take affirmative steps to operationalize Trafficking in Persons Act No. 28 and ensure perpetrators of trafficking are prosecuted *and* victims of trafficking given the necessary rehabilitative services required.
8. The Government of Iraq must stop arresting, detaining, and criminalizing women and girls for acts of prostitution directly related to their trafficking and provide victims with adequate services.