



IRAQ

Enforced
Disappearances

Updated information

GICJ Updated information to the Alternative report submitted in March 2020 to the UN Committee on Enforced Disappearances in relation to the examination of the additional information submitted by Republic of Iraq

19th Session, 7 to 25 September 2020

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Introduction

This document is submitted as an update to the alternative report submitted by Geneva International Centre for Justice (GICJ) to the 18th session of the UN Committee on Enforced Disappearances in relation to the examination of the Republic of Iraq follow-up report.

In its alternative report submitted to the Committee (March 2020), GICJ highlighted the persistence of enforced disappearances as a widespread and ongoing challenge in Iraq. GICJ commented on the replies of the Government of Iraq to the Committee's September 2015 Concluding Remarks, expressing its deep concern about the government's non-acknowledgement of the existence of enforced disappearances after 2003 and its failure to hold perpetrators accountable. GICJ also provided the Committee with information on cases of enforced disappearances in 2015 and 2016, which are discussed in this update. GICJ attaches lists of victims of these enforced disappearances to this update.

In the alternative report, the demonstrations that began on 1 October 2019 were only briefly mentioned, but are discussed in detail in this update, as abductions and enforced disappearances of human rights defenders and activists remain a common occurrence. UNAMI and OHCHR released reports in August 2020, confirming cases of enforced disappearances and related violations.

For years, GICJ has extensively reported to the United Nations relevant bodies on the systematic and widespread crimes of enforced disappearances in Iraq. Despite all its efforts, enforced disappearances remain a systematic and widespread crime in Iraq.

In this update, we will once again confirm that no improvement has taken place in Iraq regarding the issue of enforced disappearances. There has been no progress in ascertaining the circumstances or whereabouts of disappeared persons in Iraq, neither truth nor justice for them or their families. The Iraqi government does not deliver on its promises of accountability and the international community has turned away from the realities on the ground, with the widespread and systematic disappearances of thousands of Iraqi people occurring with total impunity.

The Demonstrations

On 1 October 2019, demonstrations erupted throughout Iraq, particularly in the cities of Baghdad, Nasiriyah, Najaf and Amarah and persisted despite the COVID-19 pandemic. Initially, demonstrators demanded an end to corruption and the fulfilment of basic needs. Subsequently, the demonstrations evolved into a call for transition to a truly democratic and

sustainable political system, free from sectarian influences and discrimination based on ethnic quotas.

UNAMI has documented that, from the outset, security forces responded to the peaceful protests with excessive force, live ammunition, and the indiscriminate and disproportionate use of less-lethal weapons.¹ In the first week of demonstrations, specifically from 1 to 9 October 2019, UNAMI reported that violence caused at least 157 deaths and 5,494 injured.

The numbers of victims tend to vary. UNAMI and OHCHR has documented the deaths of 487 protesters and 7,715 incidents of injury from 1 October 2019 to 30 April 2020. GICJ documents that the total number since October 2019 has totalled more than 800 protesters killed, more than 700 abducted, and more than 25,000 injured, of whom about 4,000 are permanently disabled. The High Judicial Council informed UNAMI and OHCHR that the judicial system received 524 complaints for deaths related to the demonstrations and 3,424 complaints for injuries related to the demonstrations. On 31 July 2020, the Prime Minister of Iraq indicated that violence during demonstrations up to that date had killed at least 560 people, including individuals and security personnel. The differing numbers should not distract from the fact that in only a short period of time thousands of innocent demonstrators were and are continuously subjected to severe human rights violations.

In this regard, on 25 August 2020, GICJ sent urgent appeals to the UN High Commissioner for Human Rights, Michelle Bachelet, and to Ms. Jeanine Hennis-Plasschaert, regarding the surge in violations against activists, including abductions, enforced disappearances and assassinations of Iraqi activists. This appeal was a follow-up to the two letters sent on 18 August 2020, seeing as additional abductions and assassinations occurred that week. In the appeals, GICJ stressed the imperative nature of the intervention of the High Commissioner and all relevant UN human rights bodies. The main demand in these letters is the urgent need for international action to dissolve the militias in Iraq, because they are the main perpetrators of these grave human rights violations.

The grave human rights violations against the demonstrators including the assassination operations, enforced disappearances and systematic targeting of activists, journalists, and human rights defenders were the main subject of an urgent appeal that GICJ received on 21 August 2020 from 134 Iraqi activists, human rights defenders, and observers from across Iraq. They expressed their deep concern at the deteriorating security situation and called on the UN human rights bodies to intervene.

UNAMI and OHCHR documented 154 missing protesters and human rights activists who were presumed to have been abducted or detained between 1 October 2019 and 21 March 2020. We believe that when it comes to cases of missing persons in Iraq, this amounts to enforced disappearances.

UNAMI and OHCHR reported on the arrest of some 3,000 demonstrators by the security forces and expressed concerns about arbitrary deprivation of liberty, freedom of expression and peaceful assembly and procedural guarantees.

¹ See UNAMI Special Report Demonstrations in Iraq 1-9 October 2019, access link: https://www.uniraq.org/index.php?option=com_k2&view=itemlist&layout=category&task=category&id=164&Itemid=650&lang=en&limitstart=6

Many detainees were only able to inform their families of their whereabouts after several days, contributing to, as UNAMI reports, large numbers of (missing) protesters in November 2019, which caused much distress to family members. **UNAMI acknowledges that the concealment of the whereabouts of these detainees amounts to an enforced disappearance.** UNAMI also reports that the detainees were not informed of the reason for their arrest and arrests were carried out without an arrest warrant. Interviews were carried out without a lawyer present and detainees were not brought before a judge in the time required by law. UNAMI and OHCHR have further reported that those arrested are subjected to torture and inhuman or degrading treatment.

Since the submission of our alternative report, GICJ has documented countless victims of abductions and assassinations. These acts occurred near security facilities and headquarters, confirming that the security forces failed to protect innocent civilians and instead allowed militias to carry out their systematic killings. The assassinations are consistent with the militias' attempts to silence opposition and prevent activists from gaining political influence. The whereabouts of many abducted demonstrators remain unclear, though it is certain that those who have disappeared may face the same fate as those assassinated.

Jeanine Hennis-Plasschaert, the Special Representative of the UN Secretary-General for Iraq and Head of UNAMI, stated on 27 August 2020 that, the “continued targeting and killing of activists and human rights defenders” amounts to a “deliberate silencing of peaceful voices.” UNAMI and OHCHR have also stated that the attacks aimed at creating an environment of fear and intimidation to discourage others from participating in protests.

Governmental Threats and Intimidation

The Iraqi government and many politicians, including members of Parliament, are actively promoting the systematic targeting and increased acts of violence against activists and human rights defenders. In interviews and in numerous posts on social media, they have denied the identity of the victims as activists, instead calling them U.S. foreign agents and thus a threat to Iraq. These false assertions are an attempt to discredit the victims and justify the attacks. For years, these accusations have been directed against all those detained, disappeared or arrested, which clearly shows that this is a tactic constantly used to discredit all victims of human rights violations. Threats and intimidation against activists, especially those assassinated, were also carried out by leaders of the militias, primarily those affiliated with al-Hashd al-Shaabi.²

The climate of encouragement generated by politicians enables these violations to persist. UNAMI and OHCHR have stated that the Iraqi government has “failed to make concrete efforts to protect those at risk or to pursue accountability.”³ The UN found that the “absence of accountability for these acts continues to contribute to the pervasive environment of impunity

² The militias and the government are closely intertwined, dating back to the law passed by the Iraqi Parliament on 26 November 2016 recognizing the umbrella organization, Al-Hashd Al-Shaabi, as a legal and independent military corps. These armed Shi'ite militias have thus been officially recognized and legitimized by the government. It is practically impossible to distinguish the militias from the armed forces as they have been made an integral part of the armed forces, yet act outside of the scope of the government.

³ See UNAMI Report Human Rights Violations and Abuses in the Context of Demonstrations in Iraq October 2019 to April 2020, access link: https://www.uniraq.org/index.php?option=com_k2&view=itemlist&layout=category&task=category&id=164&Itemid=650&lang=en&limitstart=0

in relation to demonstration-linked reports of violations and abuses.”⁴ The report details the government’s overt reluctance to investigate abductions and locate the victims, despite the fact that families have filed official complaints.

On 27 August 2020, with reference to the complete impunity enjoyed by the perpetrators, the Head of UNAMI declared: “Without accountability, the crimes committed will remain mere statistics, numbers on a page.” Impunity and utter lack of accountability perpetuate these grave human rights violations, which are further exacerbated by the absence of an independent judicial system.

The Iraqi judiciary is plagued by corruption and overwhelmed by the systematic interference of the government and the militias. The judiciary is incapable of providing victims with redress or holding perpetrators accountable. The right to a fair trial has not only been violated, but effectively eradicated.

For example, long before her assassination on 19 August 2020, the activist, Dr. Reham Yacoub, informed the police of countless threats as well as attacks on her car, only to be turned away and not taken seriously.

Enforced Disappearances in Anbar in 2015-2016

On 30 August 2020, UNAMI released a report titled Enforced disappearances from Anbar governorate 2015-2016: Accountability for victims and the right to truth, the first report on enforced disappearances perpetrated by pro-government forces. GICJ emphasizes the political and security circumstances surrounding the work of UNAMI, which affects the figures documented in the reports. Nevertheless, the reports indicate the widespread and systematic nature of the enforced disappearances as well as the gravity of the human rights situation in Iraq.

UNAMI and OHCHR report that during military operations in Anbar governorate in 2015 and 2016, pro-Government forces subjected at least 1,000 mostly Sunni Arab men and boys to enforced disappearance and related violations, including extrajudicial execution, torture and cruel, inhuman or degrading treatment or punishment, arbitrary arrest and unlawful detention. Noting 1,774 persons arrested by pro-Government Forces in 2015 and 2016, who remain missing, UNAMI documents a “pattern of enforced disappearance.”

UNAMI and OHCHR have also reported that enforced disappearances are accompanied by threat, intimidation and secrecy, thus causing discouragement in the reporting of cases. UNAMI and OHCHR reported that when a disappeared person and/or his family was perceived to be affiliated with ISIL, including as a consequence of simply living in areas previously controlled by the group, the family would face additional hurdles to reporting and having their complaint registered, including the requirement to furnish a “security clearance” that can only be issued by the Iraqi National Intelligence Service or National Security Service.

GICJ has reported extensively on cases of enforced disappearance in the al-Anbar, Diyala and Salah ad-Din Provinces and previously reported these cases to the Committee and the working

⁴ See UNAMI Special Report Demonstrations in Iraq: 3rd update, access link: https://www.uniraq.org/index.php?option=com_k2&view=itemlist&layout=category&task=category&id=164&Itemid=650&lang=en&limitstart=0

group. Long before the UNAMI reports were published, GICJ had documented lists of victims of enforced disappearances and submitted them to the High Commissioner and the working group. The lists reveal discrepancies in the numbers of victims found in the UNAMI reports versus those found in our reports. If one considers only the province of al-Anbar, on which the UNAMI report focuses, the number of victims between 2015-2016 is in reality much higher than documented in the UNAMI reports.

From 2-6 June 2016 in the surrounding area of Fallujah, specifically Saqlawiya, our list indicates the names of 643 disappeared persons. GICJ included this list in its letter to the High Commissioner on 12 October 2016. From the list and from the graphic below, it is evident that the militias abducted men and boys belonging to the same families and tribes – thus clearly proving the sectarian agenda behind their actions.

The graphic below depicts just a mere few of the families of the 643 disappeared persons and exemplifies how the militias target and eradicate entire generations of these families.



GICJ also received information regarding the abduction of about 300 persons from al-Azrakiya, a village between Fallujah and Saqlawiya, on 2 June 2016. 150 people were killed on the spot and among them, an entire family of 35 people was reported to have been executed. The others disappeared.

GICJ has documented 784 disappeared persons at the Bzebz bridge in May 2015. To flee the violence and control of ISIS in the year 2015, thousands of people attempted to get to the Bzebiz Bridge, from where they planned to cross the Euphrates to get to Baghdad. The militias controlled the check points around the area and abducted these persons, refusing to let them pass on the grounds that ISIS members were among them. No investigations were launched into the whereabouts of the disappeared persons. Members of Parliament confirmed the enforced disappearance of 2,200 persons.

GICJ has also reported 865 confirmed disappeared persons abducted at only one checkpoint, namely Al-Razzaza.

All the atrocities committed by the militias and some army units are part of a systematic policy of revenge that intentionally targeted the population of these cities.

From all the cases other than the demonstrations documented by GICJ, we confirm again that the militias abducted these persons purely because they were Sunni Arabs. These targeted killings and disappearances against one ethnic group amount to genocide.

The Iraqi government has repeatedly announced at the Human Rights Council and at the Committees that it cooperates fully with the UN. The Iraqi government has even extended open invitations to the special mandate holders, including the working group on enforced disappearances. However, GICJ has found that these invitations are merely part of a public relations campaign that Iraq concocted before its election for the membership of the HRC in 2017. It has deliberately blocked these visits from happening. In fact, GICJ has learned from certain Iraqi bodies, that there is a decision by the government not to allow the visit of the working group, although this visit is published in the working group's report as an invitation from Iraq.

Legal Procedures

The government continuously fails to fulfil its obligations under the Convention. Although Iraq has ratified the Convention, entered into force on 23 December 2010, it has not yet provided an effective legislation to implement it and there is no clear interpretation to the definition of “disappearance” in Iraqi law. Enforced disappearance was only criminalized as a crime against humanity between 1968-2003 and since then, has no longer been criminalized as a specific crime, as required by the Convention.

The Iraqi government has promised that there is a draft bill in place for enforced disappearances. However, to this date, the government has not submitted that bill to the Parliament. In paragraph 23 of the additional information submitted by Iraq, the Ministry of Justice has explained that they have prepared a bill that is under consideration by the State Council advisor. GICJ has obtained information that the Iraqi authorities indicate to the Council in certain ways, not to act on the bill. For this reason, still no action has been taken. This is further evidence that the government continuously fails to implement its obligations and promises. This also further proves the governments complete lack of interest in providing

solutions for the cases of disappeared persons. The Parliament Committee on Human Rights has submitted a draft law, but it is still pending.

Existent Iraqi law does not provide for specific procedures for the search for disappeared persons and the investigation of alleged enforced disappearances. There are no provisions outlining how and to whom to report a disappeared person. Instead, there are differing procedures ranging from police, courts, the Ministry of Health, the Martyrs' Foundation, and the Iraqi High Commissioner for Human Rights (IHCHR), each of which has different responsibilities. In short, there exists no clear competent authority to deal with cases of enforced disappearances.

As a result, families face extreme difficulties when seeking to determine the fate and whereabouts of their relatives. The civil documentation required to register a case, with each institution having its own administrative procedures, often discourages the registration of cases with the authorities. Intimidation and fear impede the process, which is further aggravated by discrimination on ethnic grounds deriving from the sectarian system of governance that prejudices Sunni Arabs.

Many institutions and organizations created after 2003 were based on this sectarian system of discrimination, which was intended to serve only certain ethnic groups. For example, the Martyrs' Foundation describes itself as the only official institution in Iraq designated for complaints related to issues that arose before 2003 and for the martyrs of today's militias. Thus, the foundation practically only serves claims made by those belonging to the Shia sect and sometimes the Kurds. No support exists for others or for those killed before 2003 and during the war.

Every day, GICJ receives more figures of disappeared persons and information on cases of enforced disappearances. This will continue to be the case as long as the Iraqi government does not comply with its obligations under the Convention and the perpetrators are not held accountable.

Recommendations

We repeat our recommendations from the alternative report:

- The Iraqi government must take urgent action to stop all arbitrary and unlawful arrests and abductions.
- The Iraqi authorities must urgently register all detainees and give access to their families, including to those in secret prisons.
- The Iraqi government must ensure that there is clarity regarding the authority carried by all division of its security forces; multiple forces should not hold the authority to detain individuals.
- All militias and other armed group should be criminalized and abolished.
- A comprehensive strategy should be formulated aiming to search for all those disappeared persons in Iraq, after 2003.
- The UN should take an effective role in ensuring that the issue of enforced disappearances be handled in a way to find answers for all families of those missing persons in Iraq, regardless of date, reasons, and ethnic or religious background.

- Finally, we believe that without an independent, international commission of inquiry, this and other violations in Iraq will not be appropriately examined in order to find solutions.

GICJ would like also to add the following:

- The Committee should use the UNAMI report published on 27.08.2020 to take concrete action.
- Also, the Committee should insist to visit Iraq as soon as possible as a step to find solutions for the issue of enforced disappearances in Iraq.
- The working group should also use the open invitation to visit Iraq, pressure the Iraqi government to fulfil their obligations and provide the assistance needed to search for and allocate the disappeared persons.

Attachments:

1. **List-no1- of enforced disappeared persons, Al-dour city, Salah al-Din Governorate, March 2015.**
2. **List-no2- of enforced disappeared persons, Al-Dour city, Salah al-Din Governorate, June 2015.**
3. **List-3- Names of Enforced Disappeared persons, Al-Anbar Governorate, abducted at Al-Razazza Check point, 2014-2016.**
4. **List-No.4- Of -784-Names of Enforced Disappeared persons, from Al-Anbar Governorate, abducted at Bzebz Bridge, May 2015.**
5. **List-No 5- of 643- Disappeared Persons from al-Saqlawiya/Fallujah/ Al-Anbar Governorate, June 2016.**

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