



IRAQ

Shadow report

Report submitted to the Human Rights Committee in the context of the sixth review of Iraq

Alkarama – 20 January 2022

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1. Introduction

This report focuses on the human rights situation in Iraq. It analyses the implementation in law and practice of the State party's obligations under the International Covenant on Civil and Political Rights (ICCPR), highlights our main concerns, and makes recommendations. The period of analysis covers the period between November 5th, 2015, when the Committee's last Concluding Observations¹ were issued, and today.

It is based on all of Alkarama's work on the State party, including documentation of individual cases of violations to the attention of the United Nations (UN) human rights mechanisms, analysis of the legal and institutional framework, the report submitted by the State party in the current review cycle, and the State party's replies to the list of issues prepared by the Committee's experts. This contribution was prepared in cooperation and with the participation of local actors, including non-governmental organizations (NGOs) working for the promotion and protection of human rights, victims of violations, their families and their lawyers.

It takes into account the sixth periodic report of Iraq² submitted eight months late to the Committee, the list of issues in relation to the sixth periodic report of Iraq³ and the State's reply to the list⁴. This report will be considered during its 134th session, which will be held from 28 February 2022 to 25 March 2022.

2. Context

Since the US-led coalition invasion of Iraq in 2003, the country has been torn by civil war, internal division, as well as regional turmoil. This situation has resulted in a weak government that is unable or unwilling to combat misuse of power or to bring perpetrators of severe human rights violations to justice.

Over the last years, Iraq faced the threats and violations of the so-called Islamic State (IS) of Iraq and Syria which controlled large areas of the country. Iraq has been marked by the continued escalation of violence, resulting in severe human rights violations. The violence suffered by civilians, who are the primary victims of the conflict, has been unprecedented.

The fighting between IS and the central government forces created a fertile ground to severe human rights violations. The persistent climate of insecurity was illustrated by two deadly attacks in Baghdad on July 3rd, 2016 claimed by the IS. With a death toll of 250, the Iraqi government estimated that the attacks were the deadliest since the 2003 U.S. invasion.

The military operations have generated summary killings, widespread enforced disappearances and torture. From 1968 up until today, between 250,000 and one million people were estimated missing across the country⁵.

During 2019, the country was rocked by a wave of protests of civilians railed against the political class. Born on social networks, the protests gathered several thousands, in various Iraqi cities, that reclaimed

¹ *Human Rights Committee, Concluding Observations on the fifth periodic report of Iraq*, 4th November 2015, CCPR/C/IRQ/CO/5.

² *Sixth periodic report of Iraq submitted to the Human Rights Committee under Article 40 of the International Covenant on Civil and Political Rights*, 5th August 2019, CCPR/C/IRQ/6.

³ *Human Rights Committee, List of issues regarding the sixth periodic report of Iraq*, 17th August 2020, CCPR/C/IRQ/Q/6.

⁴ *Replies of Iraq to the list of issues in relation to its sixth periodic report*, 9th December 2020, CCPR/C/IRQ/RQ/6.

⁵ *International Commission on Missing Persons (ICMP), Middle East and North Africa*, <http://www.icmp.int/where-we-work/middle-east-and-north-africa/>

jobs and functional public services while denouncing the corruption of their leaders. Nevertheless, protests were put down in blood by the authorities causing the death of hundreds of demonstrators⁶.

Since 2019 to date, numerous human rights defenders, journalists and ordinary citizens have continued to suffer from an increased crackdown by the authorities on their right to freedom of opinion and expression.

3. Implementation of the Covenant in Iraq

3.1 Constitutional and Legal Framework of the Covenant Implementation (Article 2)

The application of international standards in Iraq is conditional on their transposition into domestic law. As confirmed by the State party's replies, Iraqi judges render their decisions on the basis of Iraqi laws in force. International conventions, including the ICCPR, are thus only applied "*after they have been incorporated into national legislation under a law transposing the provisions of the instrument into detailed national legislation that is binding on the courts and can serve as the basis for judicial rulings*"⁷. *A contrario*, if an international norm is not transposed into domestic law, the judge is not bound by it. Thus, the State party's affirmation that "*nothing [to] prevent the courts from basing their rulings on any international agreement ratified by Iraq*"⁸ is meaningless.

Even though the State Party claims that "*the Iraqi judiciary does constantly seek guidance from the provisions of international human rights treaties in many of its decisions*"⁹, judges remain bound by domestic law and tend to be reluctant to apply international norms.

The numerous decisions rendered in violation of the provisions of the Covenant clearly demonstrate this reluctance of the judges and highlight the lack of will of the State party to comply with its commitments.

3.1.1 The Iraqi High Commission for Human Rights

Founded in 2008 by the Law of the High Commission for Human Rights No.53/2008¹⁰, the Iraqi High Commission for Human Rights (IHCHR) became operational in 2012. According to Article 102 of the Iraqi Constitution¹¹, the IHCHR is "*considered independent*" and "*subject to monitoring by the Council of Representatives*" with its functions "*regulated by law*". Furthermore, article 7 of the Law No.53/2008 states that "*the Council of Representative shall form a Committee comprised of not more than 15 experts*" to select candidates for membership of the Board of Commissioners among all candidates applying to a national appeal. Article 8 of the same law also requires further qualifications and states that members of the Council are elected on their merits and shall not be affiliated with political parties.

⁶ UNAMI/OHCHR, *Human Rights Violations and Abuses in the Context of Demonstrations in Iraq*, October 2019 to April 2020, p.14.

⁷ *Replies of Iraq to the list of issues in relation to its sixth periodic report*, 9th December 2020, CCPR/C/IRQ/RQ/6, Para.1.

⁸ *Replies of Iraq to the list of issues in relation to its sixth periodic report*, 9th December 2020, CCPR/C/IRQ/RQ/6, Para.1.

⁹ *Sixth periodic report of Iraq submitted to the Human Rights Committee under Article 40 of the International Covenant on Civil and Political Rights*, 5th August 2019, CCPR/C/IRQ/6, Para.12.

¹⁰ *Law of the High Commission for Human Rights No.53/2008*, https://apf-prod.s3.amazonaws.com/media/resource_file/Law_High_Commission_Human_Rights_No_53_2008.pdf?AWSAccessKeyId=AKIA57J6V557ISASX34R&Signature=u%2Fi%2FbWh4wKn8qnlSukeF0YtnVM%3D&Expires=1640280521

¹¹ *Iraq Constitution*, https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en

However, in practice, the nomination process does not respond to these requirements. Political pressure and interference from the government and political parties strongly influence the choice of the Committee of Experts in their selection of commissioners. As a result, commissioners are selected on the basis of their political affiliation rather than their qualification in the Human Rights fields and many members known to have strong ties with political parties are appointed as commissioners.

This lack of independence is an impediment to the effective functioning of the Commission regarding the risk for these government representatives to pursue party-based interests. The influence of political parties on IHCHR members was particularly noticeable throughout IHCHR statements regarding human rights violations committed in the context of anti-government protestations during 2019 and 2021. Indeed, the IHCHR pointed out the human rights violations and documented the abuses committed against protestors without, however, identifying their well-known authors. The IHCHR made delicate but biased statements concerning the various violations and, unfortunately, failed to propose concrete measure and take additional steps to remedy to these violations.

This is worrisome in regards of the IHCHR purpose to "*ensure, protect and promote respect for human rights in Iraq, to protect the rights and freedoms stipulated in the constitution and legislation, to consolidate, breed, and develop the values and culture of human rights.*"¹²

On another hand, article 5 of the Law No.53/2008 states that IHCHR is able to receive individual complaints about human rights violations from individuals, groups, and civil society organizations and is able to run investigations before referring the case to the public prosecution.

To date, none of these complaints led to concrete actions so that relatives of victims of violations, particularly those of enforced disappearance, who have filed individual complaints deplored to Alkarama the lack of concrete action of the IHCHR.

In fine, these irregularities not only affect the confidence of Iraqi civilians in this institution but also jeopardize its credibility. The IHCHR must put an end to the increasing influence of political parties, maintain its impartiality in assessing violations and take further steps than making statements.

Recommendations:

1. Ensure that all the provisions of the Covenant are transposed into domestic law so as to guarantee full compliance with international standards, otherwise declare explicitly the supremacy of all international instruments, including the Covenant, over Iraq's national law,
2. Ensure that IHCHR members are appointed without interference from political parties and any other structure, and ensure that their selections are solely made on the basis of their merits and experience in the field of human rights regardless of their political affiliations,
3. Ensure that preliminary investigations into human rights violations are carried out promptly and impartially, and ensure that legal action is taken against their perpetrators when cases are referred to the public prosecutor,
4. Ensure that declarations of violations formulated by the IHCHR are accompanied by concrete measures and actions essential to the respect of fundamental rights.

¹² *Law of the High Commission for Human Rights No.53/2008*, Article 3.

3.2 Right to Life (Article 6)

3.2.1 The issue of the death penalty: issues raised by the anti-terrorism law

In Iraq, the issue of the death penalty remains particularly concerning regarding the high number of executions carried out in total disrespect of the ICCPR and its instrumental recourse since its last periodic report in 2015. Indeed, the violations of the right to life documented by Alkarama highlights a preoccupying frequency of executions, so that Iraq remains on the list of the top five executioners in the world and ranks fourth with at least 100 executions in 2019¹³. Within a year, executions in Iraq almost doubled. This drastic increase led the UN experts to urge Iraqi authorities to halt mass executions¹⁴.

The growing instrumentalization of the "*fight against terrorism*" also create a fertile ground to the executions and opens the door to arbitrariness. Indeed, according to the Counter Terrorism Act No.13 of 2005¹⁵, anyone found guilty of committing a terror offence is given the death sentence in Iraq. The State's report also clarifies that article 2 of the mentioned act focuses not on the nature of act itself, but on the criminal intent, which, under article 1, is to disturb "*peace, stability or national unity, inciting fear and terror among people and fomenting chaos with a view to achieving terrorist goals.*"¹⁶

This vague definition of the notion of "*terrorism*" significantly expands the law's scope to include different terrorist acts that do not meet the threshold of the "*most serious crimes*" under international law. Indeed, according to the article 6 of the ICCPR the death penalty is strictly limited to the most serious crimes -meaning intentional killing and murder- that must "*be read restrictively and appertain only to crimes of extreme gravity involving intentional killing*"¹⁷.

However, as stated in the State's report, death penalty is imposed in the country for "*terrorism crimes, such as (...) kidnapping and the import and export of narcotic substances for the purpose of trafficking in cases others than those authorized by law*". This list goes far beyond the threshold of the internationally recognized definition of the "*most serious crimes*" since it includes a wide range of acts regardless of the fact that they do not directly and intentionally result in death. Hence, regardless of the fact that these acts remain serious in nature, they "*can never serve as the basis, within the framework of article 6, for the imposition of the death penalty*"¹⁸.

This overly broad definition gives the judiciary discretionary power to impose a death sentence through a subjective interpretation and adds to the fact that this law foresees the mandatory application of the death sentence, which is *per se*, contrary to International Human Rights Law Standards.

In fine, the capital punishment is routinely imposed after unfair trials in flagrant violation of the guarantees enshrined in the ICCPR and under the Anti-Terrorism Law (*see part 3.2.2*), used to justify the arbitrary arrest and detention of thousands of people, including peaceful opponents and human rights defenders (*see part 3.5*).

The State report claims that guarantees and safeguards in the application of the death penalty exist in national law. These guarantees allegedly include subsequent checks, in particular a mandatory review

¹³ *Death penalty in 2019: Facts and figures*, <https://www.amnesty.org/en/latest/news/2020/04/death-penalty-in-2019-facts-and-figures/>

¹⁴ "Iraq: Wave of mass executions must stop, trials are unfair", <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26526&LangID=E>

¹⁵ *Counter-Terrorism Act No.13 of 2005*, Article 4 para.1. <https://www.refworld.org/docid/5bd093414.html>

¹⁶ *Sixth periodic report of Iraq submitted to the Human Rights Committee under Article 40 of the International Covenant on Civil and Political Rights*, 5th August 2019, CCPR/C/IRQ/6, Para.26.

¹⁷ *Human Rights Committee, General comment No.36*, CCPR/C/GC/36, Para. 35.

¹⁸ *Human Rights Committee, General comment No.36*, CCPR/C/GC/36, Para.35.

of the court judgement imposing the death penalty by a plenary session of the Court of Cassation¹⁹, the subsequent issuance of the enforcement orders by the Office of the Prime Minister²⁰, coupled by the ratification by the President of the Republic.

However, and as denounced by a joint UNAMI and OHCHR report from October 2014, "*once death sentences are handed down by the court at first instance, they are almost never overturned on appeal, and clemency is rarely granted*"²¹.

The State party claims that the death sentence, which is supposed to have a "deterrent effect"²², is "*required because of the exceptional security situation in the country*"²³. Even though there is an effort from Iraq to fight terrorism, its judicial system -strongly criticised by human rights defenders- is known to systematically violate fair trial standards, provided by article 14 of the ICCPR, ordinarily admitting confessions extracted under torture with no material evidence (*see part 3.3.3*), and no access to legal representation.

3.2.2 Extrajudicial executions: from battles to reprisals against civilians

Executions during battles

Unfortunately, summary executions have continued in Iraq since its last periodic review. The situation in the country and the battles between the government and IS have resulted in the deaths of thousands of civilians.

Launched in October 2016, the military operation to retake Mosul from the IS led to the victory of Iraqi forces and their allies. This offensive has cost the lives of thousands of Iraqis, including women and children. While it is difficult to determine the exact human toll, the losses caused by IS or strikes by the Iraqi coalition or its American allies, would amount to 9 to 11,000 deaths between October 2016 and July 2017²⁴. According to the Kurdish leader Hoshiyar Zebari, former Iraqi foreign minister, the US air force bombing has killed more than 40,000 civilians²⁵.

Executions during protestations

Repression against the civilian population was particularly egregious during the anti-government protests that began on October 1st, 2019, to denounce leadership corruption, demand jobs and improved public services. From the start of the protests, crowds faced extreme violence from authorities. In Baghdad, which gathered several thousand demonstrators, or in southern cities such as Basra or Nassariyah, security forces used tear gas, stun grenades, sound bombs and even live bullets against demonstrators to disperse them.

A report published by the human rights office of the United Nations Assistance Mission in Iraq (UNAMI), clearly put forth the extent of repression during the anti-government demonstrations and states that "*Live ammunition caused most of the 359 deaths of protesters attributed to the security forces at protest sites, with shrapnel and the direct impact of tear gas canisters responsible for 28 other deaths*"²⁶. The

¹⁹ *Iraq Criminal Code of Procedure*, Article 254.1.a

²⁰ *Iraq Criminal Code of Procedure*, Article 286.

²¹ UNAMI/OHCHR, *Report on the Death Penalty in Iraq, Baghdad*, October 2014, p. 2.

²² *Replies of Iraq to the list of issues in relation to its sixth periodic report*, 9th December 2020, CCPR/C/IRQ/RQ/6, Para.54.

²³ *Ibidem*, Para 54.

²⁴ "*Mosul is a graveyard: Final IS battle kills 9,000 civilians*", <https://apnews.com/article/middle-east-only-on-ap-islamic-state-group-bbea7094fb954838a2fdc11278d65460>

²⁵ "*La bataille de Mossoul: l'apogée de la guerre confessionnelle en Irak*", <https://www.sciencespo.fr/ceci/fr/oir/la-bataille-de-mossoul-lapogee-de-la-guerre-confessionnelle-en-irak>

²⁶ UNAMI/OHCHR, *Human Rights Violations and Abuses in the Context of Demonstrations in Iraq*, October 2019 to April 2020, p.19.

same report mentioned the "*deliberate killing*" of unarmed protesters during anti-government demonstrations.

Indeed, many activists and journalists, known for their dissent, have been deliberately targeted by the authorities. The Iraqi War Crimes Documentation Center²⁷ and Alkarama documented the case of 37 journalists and activists who were murdered between October 1st, 2019 and January, 30th 2020.

The UN Secretary General, Antonio Guterres, expressed his concerns in a statement dated November 29th, 2019, regarding the bloody repression of protests by the Iraqi authorities, and stated that the number of victims amounted to 354 dead and 8,104 injured²⁸.

According to data shared by UNAMI "359 of the 487 protester deaths (74%) are attributed to security forces and 109 deaths (22%) to 'unidentified armed elements', 12 including due to small-scale attacks at demonstration sites. Nineteen bodies of protesters were found in burned down buildings affiliated to political parties and public offices set on fire by protesters, accounting for four per cent of deaths. The total number of recorded deaths included at least 34 children - all boys - and one woman."²⁹

Despite appeals from hundreds of families of those killed during the anti-government protests³⁰, to date, none of these extrajudicial executions have been investigated by the authorities, who prefer to keep silent about these crimes committed with impunity.

Executions on the basis of the antiterrorist law

In recent years, executions have continued in Iraq under the anti-terrorism law. Alkarama and the Iraqi War Crimes Documentation Center, highlighted those 25 thousand detainees out of a total of 60 thousand have been sentenced to death on the basis of the anti-terrorism law. Most of them were arrested and then sentenced to death by judges in the absence of evidence, sometimes solely on the basis of confessions extracted under torture or only on information provided by "secret informers".

Even though, there are many examples of extrajudicial executions, we will only mention the following case which illustrates an execution based solely on confessions extracted under torture and demonstrates the absence of collaboration of the State Party with the UN mechanisms.

On 30 April 2015, Alkarama sent a communication to the United Nations Committee on Enforced Disappearances (CED) regarding the case of **Mr. Saleh Musa Ahmed Al Baydani**, a Yemeni citizen who has been missing for over 10 months from the prison where he had been detained since December 2012. Arrested in August 2009 by U.S. forces when he was only 17, Mr. Al Baydani was sentenced to death two years later.

On 18 July 2011, Mr. Al Baydani was brought before the Al Saa Court, where, following a heavily flawed trial, he was sentenced to death on the sole basis of "evidence" obtained under torture for association with a terrorist group under the anti-terrorism law. Such an unfair verdict is contrary to Iraqi and international law, as both bodies of law uphold guarantees to fair trial and prohibit the imposition of the death penalty on juveniles. For this reason, and concerned over his imminent risk of execution, on 23 August 2012 Alkarama sent an urgent appeal to the Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions.

²⁷ Iraqi War Crimes Documentation Center, Web site: <https://iwdc-iraq.org/>

²⁸ Iraq: UN 'deeply concerned' at continued protester deaths, <https://news.un.org/en/story/2019/11/1052461>

²⁹ UNAMI/OHCHR, *Human Rights Violations and Abuses in the Context of Demonstrations in Iraq*, October 2019 to April 2020, p.14.

³⁰ "Irak: Des centaines de protestataires appellent à l'identification des assassins des manifestants", <https://www.aa.com.tr/fr/monde/irak-des-centaines-de-protestataires-appellent-%C3%A0-l-identification-des-assassins-des-manifestants-/2424727>

On 10 December 2012, after being informed of Mr. Al Baydani's transfer to another prison in Baghdad, Al Kadhamiya, known as the place where death sentences are carried out, Alkarama submitted second urgent appeal to the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions demanding that his execution be halted and his case retried by a court of law in compliance with international standards of fair trial. According to his family, Mr. Al Baydani's execution was subsequently suspended. Detained in Al Kadhamiya prison, Mr. Al Baydani was allowed to call his family on a regular basis until the end of June 2014. With no apparent reason, however, his relatives stopped receiving calls from him. Their various attempts to obtain information from the prison authorities were unsuccessful.

Therefore, Alkarama sent a communication to the CED asking them to intervene with the Iraqi authorities to demand Mr. Al Baydani's immediate release or, at the very least, that he be put under the protection of the law and that his pending death penalty be halted.

On 15 December 2021, Alkarama learnt about Mr. Al Baydani's death. The Iraqi authorities informed the CED "that the Ministry of Health in the Republic of Iraq received the body of Mr. Al Baydani, (who holds a Yemeni Nationality) Mr. Al Baydani was after he had been executed according to a judicial order". Unfortunately, none of his family members were actually informed about his execution.

In a report dated 2018, the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq highlighted the massive violations of human rights and humanitarian law under the pretext of the anti-terrorism law and recommended the State party to "repeal the Anti-Terrorism Law (No. 13) of 2005 and, pending legal reforms, charge individuals for the full range of crimes committed under the Penal Code"³¹. To date this recommendation has not been implemented.

3.3 The Right to Physical Integrity and the Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Articles 7 and 10)

3.3.1 Prohibition and criminalisation of torture

Alkarama takes note of the prohibition of torture in Iraqi legislation as stated in Iraq's report.³² Concerning the anti-torture bill cited, however, we regret that the State party only alleges that "the bill includes a definition of torture and inhuman or degrading treatment that is consistent with the Convention and with the views of the Committee"³³ without providing any further detail about the definition contained in the bill.

Therefore, we must recall that the initial definition of the draft failed to meet international standards since torture was not defined in national law as required by the Convention against Torture (UNCAT). Indeed, the definition of the notion was substantially more limited than the one contained in article 1 of UNCAT since it was limited to any act or omission with the aim of extracting a confession within the context of arrest, investigation or detention. The definition of torture in the UNCAT also includes torture as a form of punishment, intimidation and coercion, of the victim or a third person contrary to the Iraqi definition of torture which is narrower.

³¹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq, A/HRC/38/44/Add.1, Para.84. (d).

³² Sixth periodic report of Iraq submitted to the Human Rights Committee under Article 40 of the International Covenant on Civil and Political Rights, 5th August 2019, CCPR/C/IRQ/6, Paras.113-130.

³³ *Ibidem*, Para.114.

On another hand, even though the prohibition of all forms of psychological and physical torture is enshrined in Iraq's Constitution, the widespread character of the practice of secret detention and enforced disappearance creates a breeding ground for the systematic use of torture against detainees.

3.3.2 A widespread practice of torture

These past few years, Alkarama has submitted numerous cases to the Special Rapporteur on Torture and other Cruel, Inhumane, and Degrading Treatment highlighting a pattern of torture against detainees, including during periods of enforced disappearance, especially during the investigation stage.

Alkarama's work brought attention to an existing, continuous and routine practice of torture, particularly in detention, in order to induce the suspect to make confessions in relation to the crimes for which he is detained. It is only once they are charged and that their case is referred to a criminal court for trial that defendants may be transferred to a facility falling under the authority of the Ministry of Justice.

Another issue of concern is the investigations of torture allegations that are conducted by officers directly designated by the Ministry of Interior in detention centers that are under the jurisdiction of the same Ministry. Even if, the State party claims that "*all allegations of torture and ill-treatment are immediately investigated*"³⁴, these allegations are not impartially investigated. Hence, despite the striking number of alleged victims of acts of torture and inhuman treatment, allegations of torture are rarely considered in court and medical expertise is almost inexistent (*see part 3.3.3*) and perpetrators are usually left unpunished.

According to an UNAMI report that covers the period from July 1st, 2019 to April, 30th 2021, "*The mechanisms to address complaints of torture or ill-treatment do not appear to be effective nor do they provide remedy. Complaints and signs of torture are often ignored by authorities. Many detainees choose not to report such treatment due to fear of retaliation.*"³⁵

3.3.3 Judgement based on extracted confessions, a climate of impunity

Despite previous agreements about the eradication of torture as a source of evidence³⁶, Alkarama noted that extracted information from defendants are still admitted in Iraq's courts. Unfortunately, no visible efforts were made since the last review in 2015.

Coerced confessions remain the sole evidence relied upon to uphold the numerous death sentences, particularly in cases falling under the 2005 Anti-Terrorism Law. No case of torture has ever been independently and impartially investigated and no perpetrator has ever been brought to justice, thereby reinforcing the climate of widespread impunity in the country.

Even though, the State party alleges that "*courts of investigation are under an obligation to conduct inquiries into all reports they may receive concerning torture*"³⁷, to date none of the allegations have been thoroughly investigated by the authorities. In most cases documented by Alkarama, the judges

³⁴ *Replies of Iraq to the list of issues in relation to its sixth periodic report*, 9th December 2020, CCPR/C/IRQ/RQ/6, Para.60.

³⁵ *UNAMI/OHCHR Report, "Human Rights in the Administration of Justice in Iraq: legal conditions and procedural safeguards to prevent torture and ill-treatment"*, Point 7, page 5.

³⁶ *Human Rights Council, Report of the Working Group on the Universal Periodic Review, Iraq*, 15 March 2010, (A/HRC/14/14) para.81.51 and 81.52.

³⁷ *Replies of Iraq to the list of issues in relation to its sixth periodic report*, 9th December 2020, CCPR/C/IRQ/RQ/6, Para.66.

did not take into account the defendants' allegations, while requesting, in rare cases, a medical report to support the allegations.

However, it is rare if impossible for the accused, to produce a medical opinion to substantiate the allegations since he is normally denied access to a doctor while in police custody. The State party's failure to investigate torture and death in detention lead the security forces to resort to these treatments since they know they can inflict them without any consequences.

Recommendations:

5. Implement the Concluding Observations issued by the Committee against Torture issued at its last review of Iraq in August 2015³⁸,
6. Ensure that the principle of the absolute prohibition of torture is incorporated in Iraqi legislation and that torture is adequately criminalized and punished by the law,
7. Ensure that all detainees are afforded, by law and in practice, all fundamental legal safeguards from the very outset of their deprivation of liberty,
8. Adopt effective measures to guarantee that confessions extracted under torture are not admitted as evidence during trials,
9. Ensure that all allegations of torture and ill-treatment are promptly, effectively and impartially investigated and that the perpetrators are prosecuted and convicted in accordance with the gravity of their acts,
10. Ensure that all victims of torture and ill-treatment are identified, obtain redress and have an enforceable right to fair and adequate compensation, including the means for a full rehabilitation.

3.4 The Practice of Arbitrary Detention and the Infringements of Fair Trial Rights (Articles 9 and 14)

Alkarama must express its concerns regarding the continued systematic practice of arbitrary detention and the country's lack of compliance with international standards of fair trial and procedure. Despite several safeguards in the national legislation, the Iraqi judicial system does not respect the guarantees of a fair trial at all stages of the judicial process.

3.4.1 Arbitrary arrests and Prolonged pre-trial detention

Iraqi security forces continue to systematically use arbitrary arrests without any official warrant and on the basis of the anti-terrorism law. According to Iraqi law, detainees must be brought before a judge within 48 hours. However, evidence shows that, in practice, this is not the case and those arbitrarily arrested wait a long time to be brought to court.

This systematic practice was also regularly highlighted in many opinions issued by the WGAD after the submission of different cases by Alkarama.

³⁸ *Committee Against Torture, Concluding observations on the initial report of Iraq*, CAT/C/SR.1349 and 1350.

In an Opinion dated 2017³⁹, the WGAD stated that the arrest of **nineteen staff members of Mr. Tariq Al Hashimi**, a political figure known for being critical of former Prime Minister Nouri Al Maliki, was arbitrary. The WGAD also declared that the victims' detention constituted a form of discrimination as they were all targeted because they were perceived as close to Mr. Al Hashimi.

In another Opinion also dated 2017, the UN group of experts qualified **Mr. Ahmad Al Alwani's**, a Parliamentarian and member of the opposition, detention as "arbitrary" because he "*was targeted and discriminated against for his Sunni background and political opinions and activities*"⁴⁰. The UN experts also found that Mr. Al Alwani had been denied his immunities as a member of the Iraqi Parliament in violation of Iraqi Constitution and international human rights law⁴¹. Lastly, the UN experts recalled that "*capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of facts*"⁴² and that it was "*hardly the case in relation to the trial of and conviction of Mr. Al Alwani*."⁴³

Many cases documented by Alkarama over these past years illustrates blatant disrespect for due process guarantees. Victims of arbitrary detention are severely tortured and forced to make false confessions and then sentenced to death by the Iraqi Central Criminal Court following flawed trials.

The systematic practice, stressed in the Working Group's Opinions, persists to this day despite the fact that it is clearly not in compliance with the Covenant.

3.4.2 From Secret and *incommunicado* detention to enforced disappearance

Alkarama notes the Iraqi government's replies to the issue of secret detentions and regrets that it merely reproduces the national provisions in force, and that are, in practice, not respected.

The numerous cases of *incommunicado* detention recorded by Alkarama since the last periodic review show that the situation in the country is far from improving. This is an even more preoccupying issue since the Iraqi War Crimes Documentation Center and Alkarama documented the existence of several secret prisons under the control of different militias.

These secret prisons, include, for example, a prison located in the Al-Buaita district of Al-Dora south of the Iraqi capital, Baghdad and placed under the control of the "Ashura Brigades", a prison located in the village of Al-Jaara on the farm of Maher Abdul Rashid, one of the militia's leaders, in the district of Al-Madaen and placed under the control of Hezbollah⁴⁴, and, a prison located in the area of Al-Latifah controlled by the the Popular Mobilization Intelligence (PMU)⁴⁵. While the secret prisons are not limited to those mentioned, none of them is placed under the effective control of the State party but under the control of militias supported by the State.

³⁹ WGAD, Opinion No. 33/2017 concerning Rasha Nemer Jaafar al-Husseini and 18 others (Iraq), A/HRC/WGAD/2017/33.

⁴⁰ WGAD, Opinion No. 36/2017 concerning Ahmad Suleiman Jami Muhanna al Alwani (Iraq), A/HRC/WGAD/2017/36, Para.107.

⁴¹ WGAD, Opinion No. 36/2017 concerning Ahmad Suleiman Jami Muhanna al Alwani (Iraq), A/HRC/WGAD/2017/36, Para.107.

⁴² *Ibidem*, Para.91.

⁴³ *Ibidem*, Para.91.

⁴⁴ The Hezbollah Brigades are affiliated with the Popular Mobilisation Units (PMU), an umbrella organisation composed of approximately 120 militias currently embedded in the Iraqi army.

⁴⁵ Popular Mobilization Units (PMU), an umbrella organisation composed of approximately 120 militias currently embedded in the Iraqi army.

On another hand, while international provisions, including the Nelson Mandela Rules, enshrine the right of every detainee to communicate with her/his relatives about her/his detention, this right is systematically postponed in Iraq, particularly during the investigation phase. This denial of the communication right amounts to *incommunicado* detention.

Mr. Ali Al-Sudani (19 years) who disappeared on 26 November 2019, when he was on his way to Tahrir Square to participate to anti-government protests. He was stopped by a detachment of the Intelligence Agency affiliated to Baghdad Operations and was arrested on the Al-Ahrar Bridge in the capital together with other youths holding Iraqi flags, and all contact with him was lost. After Alkarama's submission to the Committee on Enforced Disappearance (CED), the Committee asked on the 5th December 2019 the government to take urgent measures to reveal his fate. Mr. Al-Sudani was released on 15 December 2019.

Secret detention also amounts to enforced disappearance, a widespread practice in Iraq, even though Iraq is a party to the International Convention for the Protection of all Persons from Enforced Disappearances (ICCPED) since 2010. The provisions of the Convention are not adequately implemented into the national legislation and cases of enforced disappearance continue to be recorded by Alkarama.

On 2 December 2019, Alkarama send to CED the case of **Mr. Mohammad Tarek Zanoun EL ELOW** a student who was arrested on 28 August 2017 at a checkpoint at Al Ayadia district in Nineveh Governorate. During clashes between IS and the Iraqi authorities in Tal Afar, many residents had to leave the city to a safer place. Mr. EL ELOW was among whose residents and was leaving Tal Afar when they were stopped at a checkpoint controlled by Kurdish authorities at Ayadia district which is nearby Tal Afar. The Kurdish authorities arrested some people including Mr. El Elow and sent them to a school located in Al Malha town, Salaheddine Province. They detained him there with other 250 persons and the last telephone call for the victim with his parents was on 28 August 2019 at 9 pm. A former detainee informed the family on 3rd November 2019 that he saw the victim in one of detention controlled by Asayish, Kurdish security service, in Erbil.

We have to underline the absence of collaboration of the State party with the CED, before which over 150 urgent actions related to disappeared individuals and raised by Alkarama, are still pending to date.

This absence of compliance led the CED to regularly call the State party to collaborate in good-faith with the procedure. Within a year, the State party was urged, more than once, to cooperate with the UN.

In May 2021, the Committee urged the Iraqi government to comply with its commitments under the Convention it ratified on November 23, 2010. The UN treaty body insisted on the obligation of the State party to cooperate by conducting full investigations into the cases of enforced disappearances of Iraqi citizens including **Mr. Khamis AL GHURERY**, **Mr. Amer Tarek Hussein DULAIMI** and **Mr. Majid AL KHALEDI**, who disappeared following arbitrary arrests by the military. Their cases were respectively brought to the attention of the CED experts by Alkarama on 14 July 2014, 27 July 2015, and 1st November 2017 through its urgent action procedure.

Alkarama pointed out to the attention of the UN experts that despite the ratification of the International Convention, the Iraqi State still does not respect its international commitments. The CED, therefore, invited the State party authorities to provide further information on the measures taken to search for the disappeared.

Finally, encouraging the government to periodically inform the families, relatives, and representatives of the disappeared of the progress of the search and investigation, the Committee stressed the importance of sanctioning any intervention by the authorities that might impede the effectiveness of the process of investigating and finding the disappeared.

These calls were again repeated in May by the CED to the Iraqi authorities by urging them to cooperate in order to locate and impartially investigate the case of the three brothers, **Falih Al JANABI, Salih AL JANABI** and **Meshtaq AL JANABI**, who have been missing since their arrest on September 9, 2014 at their home in Latifiya by members of the federal police and the Iraqi army. Alkarama and Al Wissam Humanitarian Assembly had submitted their situation to the UN Committee on 8 February 2018.

The UN body expressed concern about the lack of collaboration of the Iraqi authorities, who are generally content to accuse any missing person of belonging to a terrorist organization without providing evidence to that effect. The experts recalled that no circumstances can be invoked to justify an enforced disappearance and that it is the responsibility of the government to investigate such disappearances, regardless of the profile of the disappeared persons, or the suspicions that may exist against them.

Later again in November 2021, the CED urged the Iraqi authorities to investigate on the fate and whereabouts of **Mr. Mohamed DARAJI** who has been missing since he was abducted on 10 February 2014 from his home in the Saladin governorate (north of Baghdad), by armed members of the Saraya Al Salam militia⁴⁶. Alkarama and Al Wissam Humanitarian Assembly submitted his case through an urgent action on 22 September 2017.

The CED recalled that the Iraqi authorities remained ultimately responsible for all acts of abduction committed by its militias and that they had the obligation to investigate all cases of enforced disappearance on its territory, whoever the perpetrators were.

Most of the disappearances in the last few years follow the same pattern. People are usually arrested by government-backed militias or by members of the security forces during home raids or at checkpoints, the victims of enforced disappearances are subsequently taken to unknown destinations. Families are routinely confronted with denial by authorities who refuse to share information about the fate of victims who are held in secret detention facilities.

Mandated by his family, Alkarama sent **Mr. Ibrahim Al Shammari's** case to the CED on 24th April 2018. Arrested on 28 June 2006 at 12 pm at his home by a group of five militiamen and US forces, Mr. Al Shammari was physically assaulted before being forced into a pickup truck. Although a Federal Police vehicle was stationed nearby, no police officer intervened. Mr. Al Shammari's mother witnessed the arrest. Later during the day, Mr. Al Shammari was taken to the Sharoufi mosque located in the Sh'aab neighborhood in Baghdad where other individuals were detained. The same day at night, US forces raided the mosque and apprehended all the detainees before taking them to an unknown location. He was handed over to the Iraqi authorities at a later stage. To date, no further information has been provided about his situation.

⁴⁶ The Saraya Al Salam is a Shiite militia affiliated to the Popular Mobilisation Units.

On 21st September 2018, Alkarama send to the CED the case of **Mr. Ahmed Shaker Mahmoud Abdullah Al Hussein**'s, a taxi driver, who was stopped and arrested on 15 June 2015, at the Musayib checkpoint run by the Hezbollah Brigades while he was transporting a customer from Baghdad to Mosul. On that day, the Hezbollah Brigades arrested more than 80 people also commuting between Baghdad and Mosul via the Musayib checkpoint. The militiamen regrouped and blindfolded them before transferring them by bus to the industrial zone of the neighboring town of Alexandria. Once arrived, they released three detainees due to their advanced age who were granted permission to return to Mosul.

The State party replied that Mr. Al Hussein was killed on 24th January 2015 during the liberation of Iraqi terrorists. However, the victim's family had identified him in a picture released by the website "Rudaw"⁴⁷ on which Mr. Al Hussein was pinpointed.

Thus, on a note dated on 5th March 2019, the Committee requested additional information and exhorted the State party to "*confirm that the person to whom the State party refers to in its reply by declaring that he was killed*" and provide evidence in that respect. To date no further information has been provided.

Alkarama regrets that, despite the previous calls and the CED recommendations, the State party did not reform its legislation in order to integrate the criminalization and prohibition of enforced disappearance as required by the ICCPED. Indeed, Iraq's national legislation does not provide a definition of enforced disappearance which is considered as a "crime against humanity". This definition is lacking as it does not contemplate the "*refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person*"⁴⁸ and is not applicable to unlawful detention by state-controlled militias.

This silence within the State party's legislation not only creates a breeding ground to the practice of enforced disappearance but also creates a climate of impunity in the country. Impunity for acts of enforced disappearances therefore prevails in Iraq, as few allegations lead to the opening of investigations. Even in those rare cases where investigations are actually carried out, the Iraqi domestic law does not provide for the suspension from duties of enforced disappearances authors.

Recommendations:

11. Ensure the dissolution of all militias in the country so that the State party will be the only one to detain the monopoly of legitimate force;
12. Ensure the implementation of the WGAD's Opinions on arbitrary detention;
13. Ensure, in law and in practice, that arrests are carried out upon presentation of an arrest warrant previously issued by the judicial authorities,
14. Ensure the prohibition of all forms of *incommunicado* detention, investigate and disclose the existence of any detention center managed by the militias and put them under the protection of the law and the effective control of the State party,
15. Ensure the respect of the detainees' fundamental rights and safeguards including the right to self-defense, the right to a counsel and the right to communicate;

⁴⁷ Rudaw, 10 July 2018, صحيفة: يوجد 15 ألف معتقل من أهالي الموصل في السجون بسبب تشابه الأسماء, <http://www.rudaw.net/arabic/middleeast/iraq/1007201814>

⁴⁸ Convention for the Protection of All Persons from Enforced Disappearance, Article 2.

16. Ensure the reform of the national legislation in order to integrate the criminalization and prohibition of enforced disappearance as required by the ICCPED;
17. Ensure that all cases of enforced disappearance are promptly and impartially investigated until the location of the disappeared is confirmed and the authors of the violations are sanctioned,
18. Ensure that the relatives of the disappeared are informed about his whereabouts and take all measures to take all the action necessary to enable them to have contact with him,
19. Respond positively to the CED calls to collaborate within the procedure and ensure the cooperation in good faith regarding the cases submitted.

3.5 The Rights to Freedom of Opinion and Expression (Article 19) and Peaceful Assembly (Article 21)

Over the last years, Alkarama has observed with great concern that Iraqi authorities have used the Anti-Terrorism law for various reasons, as reported previously in this report, putting under the scope of terrorism any act, including the peaceful criticism of the Government.

Even though, Iraq's Constitution guarantees freedom of expression, press and assembly in its article 38⁴⁹ and stipulates that it is incumbent on the State to strengthen the role of civil society institutions in article 45⁵⁰, these rights are, in practice, often impaired. These past years, the right to freedom of expression has been severely curtailed.

3.5.1 Repressions against journalists and civilians

Repressions against journalists

Journalists, were among the first victims of these restrictions, as they are continuously harassed and subjected to reprisals.

On 22 October 2017, **Mr. Samir Al Daami**, an Iraqi-Norwegian political commentator, was arrested after publishing a post on Facebook criticising Iraq's prime minister, Haider al-Abadi. In his post, Al Daami claimed that Al Abadi had used the country's armed forces to retake Kirkuk so that the foreign oil companies that helped him become prime minister could gain control of the oil fields in Kirkuk. Al Daami was brought before the Public Prosecutor of the CCCI in Baghdad, where he was charged with "broadcasting false or biased information, statements or rumors" under article 210 of the Penal Code.

Concerned that Al Daami's detention resulted from him exercising his fundamental right to freedom of expression, Alkarama brought his case, on 15 November 2017, to the attention of

⁴⁹ *Iraq's Constitution*, https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en, Article 38, page 15.

⁵⁰ *Ibidem*, Article 45, page 16.

the United Nations Special Rapporteur on Freedom and Expression, asking him to call upon the Iraqi authorities to immediately release him.

Under international pressure, Al Daami was released on December 12, 2017, and the charges held against him were dropped.

The restrictions reached its peak during the anti-governments protest in 2019. Journalists and media figures have continued to suffer from severe interference in the exercise of their profession, infringing their right to freedom of opinion and expression. Alkarama and the Iraqi War Crimes Documentation Center documented the case of 41 journalists who were abducted by the militants while 73 of them were subjected to threats and reprisals between 1 October 2019 to the end of January 2020.

During the protests, 130 arrest warrants were issued under the anti-terrorism law against activists who participated in the protests and journalists covering the protests. The Iraqi War Crime Documentation Center and Alkarama documented the case of more than 50 journalists who were forced to leave their posts in Baghdad and flee for fear of being arrested or killed.

Repressions against human rights activists

Alkarama has also documented several cases of repression against human rights activists for documenting human right violations in the country. Human rights defenders, particularly those who document human rights violations, have been subjected to harassment and attacks by Iraqi security forces and affiliated militias in retaliation for their work. Among the victims of this repression were members of the NGO Al Wissam Humanitarian Assembly, our local partner which has documented numerous cases of enforced disappearances and submitted them, along with us, to UN human rights mechanisms.

In February and March 2018, two Iraqi human rights defenders working as volunteers for Al Wissam Humanitarian Assembly, **Mr. Faisal Al Tamimi** and **Mr. Iyad Al Roumy** – were subjected to threats and attacks in retaliation for speaking out against the practice of enforced disappearances in the country. As they were walking out of a meeting preparing for a conference in Karada to call on Iraq to join the International Criminal Court, a man in a car opened fire, seriously injuring one of the men.

According to the victims, the reprisals were carried out by members of a militia from the Popular Mobilization Forces. A few months later, in July 2018, Mr. Imad Al Tamimi was again subjected to reprisals. He was abducted and brought to a secret detention facility where he was detained for nearly two months and subjected to severe acts of torture. Under duress, he was forced to sign a document stating that he would no longer participate in any event related to enforced disappearances in Iraq, and that if he failed to do so, he would be re-arrested along with his brothers.

On 23rd march 2018, Alkarama wrote to the UN Special Rapporteur on human rights defenders to call upon him to intervene with the Iraqi authorities to cease all acts of reprisals against these activists.

Repressions against civilians

It is commonplace in Iraq that peaceful protests are repressed with excessive use of force. For instance, civil society activists were subjected to feverish campaigns of intimidation and systematic arrests and disappearances since the renewal of anti-government demonstrations in October 2019.

The lethal crackdown of the protestations, particularly in cities marked by intense demonstrations like Baghdad and Bassora (south west Iraq), resulted in the death of more than 350 of peaceful demonstrators⁵¹ between October and December.

In addition to the excessive use of force, the Iraqi authorities proceeded to numerous arrests and enforced disappearances of young civilian demonstrators because of their participation in the peaceful demonstrations that took place in Tahrir Square in central Baghdad.

On 30 November 2019, the young journalist and civilian activist, **Mr. Khalil Al Jumaili**, was arrested by members of the Iraqi National Intelligence Service after showing sympathy for the victims of the Nasiriyah massacre. The day of his arrest, a detachment of intelligence and counter-terrorism in Anbar came to his home and took him at gunpoint to an unknown destination. The contact with him was lost and his family has not seen him since then.

On December 9th, 2019, Alkarama and an Iraqi NGO, the Ikram Center for Human Rights, lodged a petition to the UN CED for urgent assistance and asked the authorities in Iraq to disclose the fate of Mr. Al Jumaili. On 6 January 2020, he was released.

On 07 December 2019, **Mr. Rasoul Nassif Jassim MAYAHI** was returning back to his home after participation in protests that was held in Al Tahrir square in Baghdad. After leaving the square, he has disappeared and no one knows his whereabouts since then. Although Mr. Mayahi's family has not received any information concerning the perpetrators responsible for his enforced disappearance, they believe that he was abducted by a government-backed militia. The rising numbers of abductions of a similar nature, that have been reported in Baghdad during and after the protests, follow the same pattern of enforced disappearances directed against peaceful anti-government demonstrators.

On 15th January 2020, Alkarama submitted his case to the CED.

The Iraqi authorities targeted all fractions, independently of their age. Even minors, were confronted by security forces with excessive violence.

On 30 November 2019, the young activist **Mrs. Asma Al-Azzawi** (17 years) left her family's house located in the New Baghdad area, east of the capital, to visit relatives. She disappeared from that moment and no one was able to communicate with her after that day.

After Alkarama's submission to the CED, the Committee asked the Iraqi authorities to take urgent measures to locate Mrs. Al-Azzawi and place her under the protection of the Law. She was released on 15 December 2019.

On 4 December 2019, Alkarama send the case of **Mr. Shakir Ra'ed Ni'ema AL KHAFAJI** (17 years) who was arrested on 5 November 2019 while returning back from Al Tahrir square after having participate in the antigovernment protests. Around 10 pm, before leaving the square, he called his family. After the call, he disappeared and his family could not get in touch with him again.

⁵¹ *Annual Report Alkarama 2019*, Iraq, page 48, https://www.alkarama.org/sites/default/files/2021-06/ALK_Rapport%20annuel_2019_Corriges.pdf

All of the released civilians affirmed having not been unable to communicate with their families or with a lawyer during their detention. None of them was able to identify his place of detention, and all of them were accused with sabotage and terrorism. They were subjected to torture and were handcuffed and blindfolded during the whole of their detention. All of them claimed that they were threatened with further arrest and disappearance if they participate in the demonstrations or show support for the demonstrators.

3.5.2 A repressive legal framework: suspension of legislative drafts contrary to the ICCPR

Over the past years, some legislative drafts that aimed to repress freedom of assembly and expression and peaceful dissent in violation of the ICCPR were suspended by the State party after serious concerns were raised.

Indeed, on 13 May 2017, following popular protests, the Iraqi Parliament decided to indefinitely postpone the vote on the Draft law on freedom of expression and peaceful demonstrations, a text that restricted the fundamental rights and freedoms of Iraqi citizens.

The draft law introduces limitations to free speech since it defines freedom of expression as "*the freedom of citizens to express their thoughts and opinions through speaking, writing, filming or any other forms in a way that does not disrupt public order or morals*". Such formulation is vague and does not abide by article 19 of the International Covenant on Civil and Political Rights (ICCPR), which requires that restrictions to the right to freedom of expression must be "necessary" and detailed in the law. In the same manner, article 13(2) punishes anyone who "publicly attacks the beliefs of a religious sect" or "publicly insults a figure or symbol that is respected by or sacred by a religious group" with up to one year of imprisonment and a fine of 10 million dinars (about 8,500\$).

This provision allows for a broad interpretation which can encompass acts of free speech such as criticism of religious figures or practices that do not call for hatred or discrimination against any specific religion. However, the parliamentary committees suggested repealing this provision following protests of civil society. Moreover, in a move aiming at turning the right to freedom of peaceful assembly into a privilege granted by the authorities, article 7 of the draft law requires a permission from the head of the Province Administrative Unit to hold public assemblies.

Following widespread opposition to the draft law, the parliamentary committees proposed to amend the text to only require a "notification", in line with international standards. However, this amendment specifies that the head of the Administrative Unit holds "the right to reject the request", maintaining a *de facto* procedure of approval. Grounds for denying the permission to hold a protest are if the latter constitute a "threat to national security or public order and public morals". This provision could be invoked by the authorities to stifle criticism of the government and its policies. Indeed, security forces often crackdown on peaceful protests pretexting that they constitute a threat to national security. In summer 2016, peaceful protests condemning corruption within the government were considered as a "terrorist threat". In addition, under the law, the "subject and purpose" of the demonstration and the "names of its organising committee" must be communicated to the Iraqi authorities. Given the current situation in the country, where protesters are often arrested, interrogated and even subjected to enforced disappearance by the authorities, this requirement would pose a significant threat to their personal security.

Furthermore, article 8 prohibits peaceful assemblies from taking place "in public streets", which violates the very right to peaceful assembly, since public streets are par excellence the place where public assemblies take place.

On 13 June 2017, Alkarama wrote to the Special Rapporteur on the right to freedom of expression and the Special Rapporteur on the right to freedom of peaceful assembly and association, calling upon them to intervene with the Iraqi authorities to ensure that the draft law is further amended as to ensure its compliance with international human rights law.

In the same manner, the State party suspended a cybercrime bill that would have criminalized a wide range of peaceful expression. The bill proposed overbroad restrictions of electronic communications that led to punish any potential dissent. It criminalized different activities through vague definitions and aimed to prosecute anyone for any online post considering the content a threat to governmental, social, or religious interests. This draft failed to pass as it stood and was suspended after serious concerns were raised by different NGOs to ensure that the draft law is further amended as to ensure its compliance with international human rights law.

Recommendations:

20. Ensure that freedom of opinion and expression as well as of peaceful assembly are fully respected,
21. Ensure that law enforcement officials refrain from resorting to the excessive use of force when confronting peaceful protests,
22. Investigate effectively, promptly, thoroughly, and impartially any allegation of violation or abuse committed by the security forces in the context of the repression of pacific protests,
23. Amend the Anti-Terrorism Law No. 13 of 2005 to ensure the crime of terrorism is strictly defined in order to leave no room for abusive interpretation and application of the law.

4. Conclusion

This report has attempted to highlight the human rights violations that have occurred since the last periodic review of the State party in 2015.

Despite minor evolutions, the human rights situation remains fragile throughout the country. The flaws in the implementation and transposition of the Convention's provisions, the lack of respect for the guarantees, when they exist in national legislation, and the impunity of the perpetrators of violations contribute to widespread abuses which only worsen the situation.

Over the past five years, Alkarama has observed that a large proportion of the violations committed on Iraqi territory were carried out by government-backed militias. These militias, supported, or at least tolerated by the Iraqi government, commit all kinds of violations with religious motivations. From attempts to the right to life, enforced disappearances to the acts of torture, these militias act with a considerable autonomy and in total impunity.

The dissolution of these militias, that constitute, a real threat to the human rights situation in Iraq, is, thus, the only solution for the creation of the rule of law in which the State is and remains the only authority to detain and exercise the monopoly of legitimate force.

Alkarama hopes that a constructive dialogue between the Committee and the Iraqi authorities will allow these concerns to be addressed with the aim of establishing a rule of law in Iraq that respects its international obligations without any derogation.