

Human Rights Violations Against Women and Girls in Iraq

A Report for the United Nations Human Rights Committee

Submitted for Consideration for the List of Issues in advance of the review of the Government of Iraq's compliance with the International Covenant on Civil and Political Rights

May 2020

Submitted by:

MADRE

Human Rights and Gender Justice (HRGJ) Clinic, City University of New York (CUNY) School of Law

Organization for Women's Freedom in Iraq (OWFI)

Supported by:

Asuda

Handicap Union of Kurdistan (HUK)

Emma Organization for Human Development

Etana Women Organization

Women Organization for Legal Aid (WOLA)

Al-Taqwa Association

TABLE OF CONTENTS

I. INTRODUCTION	1
II. CIVIL AND POLITICAL RIGHTS VIOLATIONS IN THE CONTEXT OF PROTESTS (ARTS. 6, 9, 19, 21).....	2
i. Response by the Government of Iraq.....	6
ii. Suggested Questions for the Government of Iraq.....	7
III. SEXUAL AND GENDER BASED VIOLENCE (SGBV) (ARTS. 2, 3, 6, 7, 8, 9, 12, 14, 23, 24, & 26)	7
A. “Honor” Killings.....	7
i. Response by the Government of Iraq.....	9
ii. Suggested Questions for the Government of Iraq.....	9
B. Forced, Temporary, and Early Marriage.....	10
i. Response by the Government of Iraq.....	11
ii. Suggested Questions for the Government of Iraq.....	11
C. Trafficking and Forced Prostitution.....	12
i. Response by the Government of Iraq.....	13
ii. Suggested Questions for the Government of Iraq.....	14
D. Slavery.....	15
i. Response by the Government of Iraq.....	19
ii. Suggested Questions for the Government of Iraq.....	20
E. The Government of Iraq’s Failure to Prosecute Sexual and Gender-Based Violence Committed by ISIL and Protect Victims.....	20
i. Response by the Government of Iraq.....	21
ii. Suggested Questions for the Government of Iraq.....	23
IV. DENIAL OF SAFE SHELTER FOR PERSONS FLEEING DOMESTIC VIOLENCE INCLUDING “HONOR” KILLINGS (ARTS. 2, 3, 6, 7, 12, & 26)	23
A. Call for Shelter for SGBV Survivors by UN Treaty Bodies	25
i. Response by the Government of Iraq.....	26
ii. Suggested Questions for the Government of Iraq.....	28
V. DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (ART. 26)	28
i. Response by the Government of Iraq.....	30
ii. Suggested Questions for the Government of Iraq.....	30

VI. DISCRIMINATION AGAINST AFRO-DESCENDANT IRAQIS (ART. 26).....	30
i. Response by the Government of Iraq.....	31
ii. Suggested Questions for the Government of Iraq.....	32

I. INTRODUCTION

This report, submitted in advance of the UN Human Rights Committee's (HRC) determination of the List of Issues for its review of Iraq's compliance with the International Covenant on Civil and Political Rights (ICCPR), describes persistent human rights violations against women and girls in Iraq. Since this Committee's last review, the Government of Iraq has failed to implement recommendations to address violations of women and girls' civil and political rights. Gender-based violence remains a serious concern, encouraged by a culture of impunity.¹ The Government has yet to pass much needed legislation or amend existing laws to address this violence, and victims lack adequate access to justice and services.² The Government has also failed to meaningfully prosecute the Islamic State of Iraq and the Levant's (ISIL) gender-based crimes.³ Afro-descendant Iraqi women and women with disabilities in Iraq face violations of their basic rights, due to intersecting forms of stigma and discrimination.⁴

In early October, Iraqi civil society began peaceful demonstrations, calling on the Government to end corruption and unemployment, and to address inadequate housing and lack of basic services.⁵ In defiance of patriarchal gender norms, women joined the demonstrations to demand rights and equality.⁶ Alongside all demonstrators, they have faced significant repression and violence, while

¹ UN Committee on Elimination of All Forms of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, paras. 19(a)-(b), 21(b), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

² UN Committee on Elimination of All Forms of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, paras. 19(b), 21(a), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019); UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 86-88 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

³ UN Secretary-General, *Conflict-Related Sexual Violence*, para. 25, UN Doc. S/2019/280 (Mar. 29, 2019).

⁴ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Iraq*, para. 11(a), UN Doc. CRPD/C/IRQ/CO/1 (Oct. 23, 2019); UN Assistance Mission in Iraq (UNAMI) & Office of the High Commissioner for Human Rights (OHCHR), *Report on the Rights of Persons with Disabilities in Iraq*, at 8-9 (Dec. 2016),

https://reliefweb.int/sites/reliefweb.int/files/resources/UNAMI_OHCHR_Report_on_the_Rights_of_PWD_FINAL_2Jan2017.pdf; Iraqi Alliance of Disability, *The Parallel Report for the Government's Report on the Convention on the Rights of Persons with Disability (CRPD)*, at 8 (Jan. 2018),

https://www.ecoi.net/en/file/local/1449271/1930_1541602017_int-crpd-ico-irq-31954-e.doc; UN Committee on Elimination of All Forms of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 19(d) UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

⁵ UN Assistance Mission for Iraq (UNAMI), *Demonstrations in Iraq 1-9 October 2019*, at 3 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en; UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 2 (Nov. 5, 2019),

https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6f59905382209da&Itemid=650&lang=en.

⁶ Sofia Barbarani, *Hundreds of Iraqi Women Challenge Al-Sadr's Call For Segregation*, AL JAZEERA (Feb. 14, 2020), <https://www.aljazeera.com/news/2020/02/hundreds-iraqi-women-challenge-al-sadr-call-segregation-200214085945369.html>; Leah Rodriguez, *Hundreds of Iraqi Women Rallied for the Right to Protest With Men*, Global Citizen (Feb. 14, 2020), <https://www.globalcitizen.org/en/content/iraq-anti-government-gender-segregation-protests/>.

suffering additional public reprobation from key religious leadership for breaking with traditional gender norms and for calling for women's rights.⁷

The Government made initial concessions, including by calling for accountability for violence against the demonstrators, and by voting in Parliament on measures to address youth unemployment, and to provide housing and cash assistance for impoverished families.⁸ It has yet to take meaningful action to implement these measures, however,⁹ and has not passed legislation to address gender violence and inequality. The Government has also failed to prevent violence against protestors, including by its own agents, and has not adequately investigated perpetrators.¹⁰ The recent spread of coronavirus in Iraq throws further into relief demonstrators' frustration with Iraq's poor public services, including its lack of health infrastructure. As of early March, some Iraqis continued to demonstrate and call for change, despite the risks posed by violent actors and by the heightened public health crisis.¹¹

It is clear that Iraq is at a fragile crossroads, making it more important than ever that the international community support Iraqi civil society's efforts to protect human rights. Women are key actors in efforts to avert conflict and build just societies, and their meaningful participation is linked to recognition of their basic human rights, including the right to be free from gender violence. We encourage the Committee to consider the recommended questions for the Iraqi government which follow each section of this report and which are designed to ensure that the Government upholds all Iraqis' human rights.

II. CIVIL AND POLITICAL RIGHTS VIOLATIONS IN THE CONTEXT OF PROTESTS (ARTS. 6, 9, 19, 21)

In early October, 2019, civil society rose up in peaceful demonstrations throughout central and southern Iraq, demanding basic services, employment, and an end to corruption.¹² In a second

⁷ Interview with woman civil society activist (Nov. 7, 2019) (on file with MADRE) (name omitted for safety reasons); Mohammed Rwanduzy, *Iraqi Women March in Baghdad's Tahrir Square to Demand Equality*, RUDAW (Feb. 13, 2020), <https://www.rudaw.net/english/middleeast/iraq/130220202>.

⁸ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 9 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en.

⁹ United Nations Iraq, *UN Representative Welcomes Designation of New Iraqi Prime Minister, Urges Swift Action to Deliver on Reforms, Accountability* (Feb. 1, 2020),

https://www.uniraq.org/index.php?option=com_k2&view=item&id=12320:un-representative-welcomes-designation-of-new-iraqi-prime-minister-urges-swift-action-to-deliver-on-reforms-accountability&Itemid=605&lang=en;

Jane Arraf, *Iraq's Protests Shook the Government; Now the Movement is Nearly Crushed*, NPR (Feb. 21, 2020), <https://www.npr.org/2020/02/21/807725624/iraqs-powerful-protests-forced-political-change-now-they-re-nearly-crushed>; *Iraq Protests Swell with People Angry at Slow Pace of Reforms*, AL JAZEERA (Jan. 19, 2020), <https://www.aljazeera.com/news/2020/01/iraq-protests-swell-people-angry-slow-pace-reforms-200119133035629.html>.

¹⁰ Belkis Wille, *Action Needed to End Iraq Killings*, Human Rights Watch (Dec. 11, 2019), <https://www.hrw.org/news/2019/12/12/action-needed-end-iraq-killings>.

¹¹ Hassan Ali Ahmed, *Iraqi Protesters Stand Firm*, Al-Monitor (Mar. 7, 2020), <https://www.al-monitor.com/pulse/originals/2020/03/iraq-protests-coronavirus.html?src=ilaw>.

¹² UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 3 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en.

wave of protests that began October 25, 2019 and continued for months, demonstrators amplified their original demands while also calling for accountability for the Iraqi security forces' use of excessive force and for changes to Iraq's political system.¹³ Protestors represent a broad cross-section of society, including women who defied patriarchal gender norms to participate in the front lines of the demonstrations.¹⁴

During the initial wave of demonstrations from October 1-9, 2019, Iraqi security forces unleashed violence, including water cannons, tear gas, disorientation devices, rubber bullets, and live ammunition against demonstrators.¹⁵ Witnesses reported that protestors killed by gunfire had been struck in the head or chest.¹⁶ During the wave of demonstrations beginning on October 25, security forces and militia groups shot protestors with live ammunition,¹⁷ and security forces fired tear gas canisters directly at demonstrators, leading to injury and death.¹⁸ As of December, the UN Assistance Mission in Iraq (UNAMI) estimated based on monitoring interviews that violence during demonstrations has caused at least 424 deaths, and an estimated 19,000 injuries of both demonstrators and Iraqi security forces.¹⁹

Armed elements or militias, including the Popular Mobilisation Units (PMU), a state-backed collection of militias have attacked and killed protestors, including women, with impunity and in

¹³ UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 2 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6d6f59905382209da&Itemid=650&lang=en.

¹⁴ P. Magid, *Women in Iraq Defiantly Take to the Streets Despite Fears They 'Could Die at Any Moment'*, THE INDEPENDENT, (Nov. 23, 2019), <https://www.independent.co.uk/news/world/middle-east/iraq-protests-women-streets-death-torture-revolution-tahir-square-a9213976.html>; Arwa Ibrahim, *The Women on the Frontline of Iraq's Uprising*, AL JAZEERA (Dec. 5, 2019), <https://www.aljazeera.com/news/2019/12/women-frontline-iraq-uprising-191205085107123.html>; Qassim Abdul-Zahra, *Women Protesters in Iraq Defy Radical Cleric, Take to Streets*, AP NEWS (Feb. 13, 2020), <https://apnews.com/d584ba1f43af00804d32db7c436f4622>.

¹⁵ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 4-5 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6dfd006e42f911576f52d4c49&Itemid=650&lang=en.

¹⁶ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 5 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6dfd006e42f911576f52d4c49&Itemid=650&lang=en; Human Rights Watch, *Iraq: Lethal Force Used Against Protesters* (Oct. 10, 2019), <https://www.hrw.org/news/2019/10/10/iraq-lethal-force-used-against-protesters>.

¹⁷ UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 2-3 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6d6f59905382209da&Itemid=650&lang=en; UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 3 (Dec. 11, 2019),

https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en; Human Rights Watch, *Iraq: Authorities Violently Remove Protesters* (Jan. 31, 2020), <https://www.hrw.org/news/2020/01/31/iraq-authorities-violently-remove-protesters>.

¹⁸ UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 4-5 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6d6f59905382209da&Itemid=650&lang=en.

¹⁹ UNAMI clarifies that these figures are preliminary as the Government has not allowed their office to access official hospital statistical data as they have in the past. UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 2 fn. 4 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

cooperation with Iraqi security forces.²⁰ In early November women civil society activists reported that women leaving Tahrir Square had been followed and kidnapped.²¹ A woman volunteer field medic reported being tortured after she was kidnapped while leaving Tahrir Square.²² Activists reported that as of December 11, 2019 at least six women had been kidnapped and raped by militia members in Baghdad, and were receiving treatment in local hospitals.²³

Human rights defenders and activists have also been threatened, arbitrarily arrested, attacked and killed.²⁴ Security forces allegedly made “watchlists” with names of journalists, human rights defenders, and civil society activists thought to be involved in the protests.²⁵ Iraqi security forces have arrested and detained thousands of protestors since October 1, and held many in detention for several hours, up to three days, and in some cases longer.²⁶ Many protestors were released without charge.²⁷ Security forces reportedly beat some protestors while in custody, denied them the ability to contact their families or lawyers once detained, and forced them to sign pledges not to participate in demonstrations as a condition of release.²⁸ Militia and other armed actors arrested or abducted

²⁰ Human Rights Watch, *Iraq: State Appears Complicit in Massacre of Protesters* (Dec. 16, 2019), <https://www.hrw.org/news/2019/12/16/iraq-state-appears-complicit-massacre-protesters>; United Nations Iraq, *UN Representative Hennis-Plasschaert Deplores Use of Hunting Guns, Renews Call for Protection of Demonstrators* (Feb. 17, 2020), https://www.uniraq.org/index.php?option=com_k2&view=item&id=12376:un-representative-hennis-plasschaert-deplores-use-of-hunting-guns-renews-call-for-protection-of-demonstrators&Itemid=605&lang=en.

²¹ Interview with woman civil society activist (Nov. 7, 2019) (on file with MADRE) (name omitted for safety reasons).

²² Linah Alsaafin, *Who is Cracking Down on Iraq’s Anti-Government Protesters?* AL JAZEERA (Feb. 3, 2020), <https://www.aljazeera.com/news/2020/01/cracking-iraqs-anti-government-protesters-200128220456441.html>.

²³ Interview with woman civil society activist (Dec. 11, 2019) (on file with MADRE) (name omitted for safety reasons).

²⁴ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 8 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6dfd006e42f911576f52d4c49&Itemid=650&lang=en; UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 6-7 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

²⁵ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 8 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6dfd006e42f911576f52d4c49&Itemid=650&lang=en.

²⁶ UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 5 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en; UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 6 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6dfd006e42f911576f52d4c49&Itemid=650&lang=en.

²⁷ UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 5 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

²⁸ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 6-7 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6dfd006e42f911576f52d4c49&Itemid=650&lang=en; UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 5-6 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbcdf59905382209da&Itemid=650&lang=en; UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 5-6 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

demonstrators.²⁹ As of November 4, 2019, armed actors reportedly abducted six protestors in Baghdad, including a female volunteer paramedic kidnapped on November 2, held blindfolded for 11 days and released on November 13.³⁰

Throughout the first two months of demonstrations, the Government alternated between limiting access to or shutting down Internet service, and it has blocked social media for months.³¹ Media coverage of the protests has also been suppressed. During the initial demonstrations, armed men raided television channels, threatened and intimidated the staff, and in some instances, stole hard drives and computers and set fire to the buildings.³² Journalists also reported that security forces harassed, beat, and arbitrarily arrested them for covering the protests.³³ On October 24, 2019, the Ministry of Interior announced a ban on live coverage of the demonstrations.³⁴ After the resumption of protests on October 25, the Government's Communications and Media Commission blocked one channel from broadcasting because they had shown footage of the demonstrations, and its agents reportedly visited another to enforce a three month ban set in September.³⁵ Some channels reported they were suspended by the Iraqi Government, and others reported signal interruptions and intimidation by state and other armed actors.³⁶ Journalists continued to risk physical injury, including from live ammunition, and arrest.³⁷

²⁹ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 6-7 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en; UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 5-6 (Nov. 5, 2019),

https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6df59905382209da&Itemid=650&lang=en.

³⁰ UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 6 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6df59905382209da&Itemid=650&lang=en; Human Rights Watch, *Iraq: Abductions Linked to Baghdad Protests* (Dec. 2, 2019), <https://www.hrw.org/news/2019/12/02/iraq-abductions-linked-baghdad-protests>.

³¹ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 7-8 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en; UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 7 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

³² UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 7 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en.

³³ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 7 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en.

³⁴ UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 6 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6df59905382209da&Itemid=650&lang=en.

³⁵ UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 6 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6df59905382209da&Itemid=650&lang=en.

³⁶ UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 6 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbc6df59905382209da&Itemid=650&lang=en.

³⁷ UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 7 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

i. Response by the Government of Iraq

The recent protests began after the Government submitted its report to this Committee, however the Government notes in its report that in response to previous protests it set up a special ministerial committee to review and address those protesters' demands.³⁸ The Government also states that it trained the Ministry of Interior staff to "improve their skills in dealing with protestors and media," and staff are now "fully prepared to receive complaints concerning abuses of press freedom or assaults on journalists by its staff and to take legal action against perpetrators."³⁹ The Government also highlights the Rights of Journalists Act No. 21 of 2011, which is meant to guarantee rights of journalists so they "can perform their work with freedom and ease," in particular noting that journalists "may not be questioned or interrogated" in connection with their work except by court order.⁴⁰ The Ministry of Interior's actions during the recent protest to suppress the freedom of the press, however, demonstrate the ineffectiveness of the training and failure of staff to adhere to the law.⁴¹

In response to calls for accountability for violence against protestors, the Government set up an Investigative Committee to identify and prosecute perpetrators.⁴² The Committee acknowledged excessive use of force and recommended investigations and disciplinary actions,⁴³ yet Iraqi security forces have continued to use violent and deadly force against protestors.⁴⁴ As of December 2019, prosecutors only convicted two police officers for killing protestors in Wassit, and authorities in Najaf and Dhi Qar issued arrest warrants for officers that used excessive force.⁴⁵ The Government has not taken judicial action against authorities in Baghdad.⁴⁶

³⁸ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 239, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

³⁹ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 243, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

⁴⁰ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 241, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

⁴¹ UNAMI, *Demonstrations in Iraq: Update 25 October – 4 November, 2019*, at 6 (Nov. 5, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3535_7052c3935e769fbcdf59905382209da&Itemid=650&lang=en.

⁴² UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 9 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en.

⁴³ UNAMI, *Demonstrations in Iraq 1-9 October 2019*, at 9 (Oct. 22, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3478_d12a58b6fdf006e42f911576f52d4c49&Itemid=650&lang=en.

⁴⁴ United Nations Iraq, *Amid Ongoing Protests and Violence, UN Urges Stepped Up Efforts to Break Political Deadlock* (Jan. 30, 2020), https://www.uniraq.org/index.php?option=com_k2&view=item&id=12314:amid-ongoing-protests-and-violence-un-urges-stepped-up-efforts-to-break-political-deadlock&Itemid=605&lang=en.

⁴⁵ Human Rights Watch, *Iraq: State Appears Complicit in Massacre of Protesters* (Dec. 16, 2019), <https://www.hrw.org/news/2019/12/16/iraq-state-appears-complicit-massacre-protesters>.

⁴⁶ Human Rights Watch, *Iraq: State Appears Complicit in Massacre of Protesters* (Dec. 16, 2019), <https://www.hrw.org/news/2019/12/16/iraq-state-appears-complicit-massacre-protesters>.

ii. Suggested Questions for the Government of Iraq

1. What measures is the Government taking to conduct prompt, independent, impartial, and thorough investigations of all demonstration-related violence and killings since October 1, 2019, with a view to ensuring accountability for perpetrators, including state actors?⁴⁷
2. How is the Government ensuring that all persons arrested in relation to demonstrations are afforded due process rights and protected from unlawful detention?⁴⁸
3. What steps is the Government taking to prevent deliberate killings of human rights defenders by state and private actors, and to ensure full, impartial and thorough investigations into threats, intimidation or killings of human rights defenders, including women activists?⁴⁹
4. What measures is the Government taking to ensure press freedom and to investigate allegations of threats or violence against journalists and hold perpetrators accountable?⁵⁰

III. SEXUAL AND GENDER BASED VIOLENCE (SGBV)⁵¹ (ARTS. 2, 3, 6, 7, 8, 9, 12, 14, 23, 24, & 26)

A. “Honor” Killings

“Honor” killings remain widespread in Iraq, in part due to lack of legislation to prevent and punish them, and penal code provisions that all but encourage them by allowing mitigated sentencing for murder in certain cases.⁵² According to the Iraqi Ministry of the Interior’s Family and Child

⁴⁷ UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 9 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

⁴⁸ UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 9 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

⁴⁹ UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 9 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

⁵⁰ UNAMI, *Demonstrations in Iraq: 2nd Update 5 November – 9 December, 2019*, at 9 (Dec. 11, 2019), https://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=3581_1ef7f2e8ac79ed0c9a61fe0f1944fe3e&Itemid=650&lang=en.

⁵¹ This section discusses legal and judicial reforms necessary for accessing justice and therefore uses the legal term “victim” instead of “survivor” defined as a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered, and who may or may not still be alive.

⁵² UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, paras. 40-41, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018); Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, paras. 10-12 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf; Fazel Hawramy, *Buried Alive by Her family, Iraqi Woman Fears for Her Life as Murders*

Protection Unit, 272 “honor” crimes cases were reported to the police and referred to courts in 2017.⁵³ However, available statistics likely undercount “honor” killings due to lack of reporting, and they are frequently concealed as accidents or suicides to avoid prosecution.⁵⁴

In the aftermath of the conflict with ISIL, many women victims are still at risk of “honor” killing if they return to their homes, for the perceived “dishonor” they bring to their families and communities.⁵⁵ In 2017 a group of women trafficking victims, falsely charged with engaging in prostitution and unjustly incarcerated, had to seek refuge at a shelter in Basra, being unable to return home after release due to death threats from their families.⁵⁶ Women in prominent positions, including politicians, journalists, doctors, and human rights defenders have also been targeted for “honor” killings for defying prescribed gender roles and taking active public positions.⁵⁷ Between August and September 2018 alone, four prominent Iraqi women were assassinated.⁵⁸

Iraqi Penal Code Articles 128, 130, 131, and 409 still allow for mitigated sentences for crimes including homicide, if they are committed for so-called “honourable motives.”⁵⁹ In Kurdistan, parliament amended the penal code to suspend Article 409,⁶⁰ however local advocates note that Kurdish authorities issue an amnesty every four years, including for those accused of “honor” killings.⁶¹ Law enforcement, often viewing violence against family members as a private matter,

Go Unpunished, REUTERS (Jul. 12, 2017), <https://www.reuters.com/article/us-iraq-women-murder/buried-alive-by-her-family-iraqi-woman-fears-for-her-life-as-murders-go-unpunished-idUSKBN19X2MN>,

⁵³ UNAMI & OHCHR *Report on Human Rights in Iraq: July to December 2017*, at 12 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

⁵⁴ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 92 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, para. 40, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018).

⁵⁵ Lisa Davis, *Iraqi Women Confronting ISIL: Protecting Women’s Rights in the Context of Conflict*, 22 SW. J. INT’L L. 27, 45 (2016), <https://www.swlaw.edu/sites/default/files/2017-04/SJIL%20V22,%20N1%203-Iraqi%20Women%20Confronting%20ISIL-Davis.pdf>.

⁵⁶ UNAMI & OHCHR, *Report on Human Rights in Iraq: July to December 2017*, at 13 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

⁵⁷ See, Human Rights and Gender Justice (HRGJ) Clinic, City University of New York (CUNY) School of Law, MADRE & the Organization of Women’s Freedom in Iraq (OWFI), *Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq*, para. 2 (2017); UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 89 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

⁵⁸ Martin Chulov, *Deaths of High-Profile Iraqi Women Spark Fear of Conservative Backlash*, THE GUARDIAN (Oct. 2, 2018), <https://www.theguardian.com/world/2018/oct/02/death-of-high-profile-iraqi-women-sparks-fear-of-witch-hunt>; Megan Specia, *A Social Media Star Is Shot Dead in Baghdad: Iraqis Fear a Trend*, NY TIMES (Sept. 29, 2018), <https://www.nytimes.com/2018/09/29/world/middleeast/tara-fares-iraq-model-death.html>; Zahra Ali, *After Several High-Profile Murders in Iraq, Here’s What Headlines Missed About Their Cause*, THE WASHINGTON POST (Oct. 15, 2018), <https://www.washingtonpost.com/news/monkey-cage/wp/2018/10/15/after-several-high-profile-murders-in-iraq-heres-what-headlines-missed-about-their-cause/>.

⁵⁹ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 92 fn. 560 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

⁶⁰ Parliament of Kurdistan, Law No. 3 of 2015, t.ly/OEpe

⁶¹ Correspondence with Iraqi human rights advocates (Apr. 30, 2020) (on file with MADRE).

is reluctant to investigate such crimes and hold perpetrators accountable.⁶² Women have also been held in prisons or detention centers in order to protect them from potential “honor” killings.⁶³

i. Response by the Government of Iraq

The Iraqi government’s report to the Committee makes no reference to “honor” killings nor does it describe measures to eliminate mitigated sentences for these crimes.⁶⁴ The Government also ignored the Committee’s specific recommendation from 2015 to “amend its legislation to guarantee adequate protection of women against violence, including by repealing the Criminal Code provisions establishing ‘honourable motives’ as a mitigating circumstance for murder.”⁶⁵

Of further concern is the Iraqi government’s justification for sentence mitigation. In its recent State report to the Committee on the Elimination of Discrimination against Women it claimed that the phrase “honourable motives” in the Penal Code covers all “honourable motives” and does not exclusively relate to crimes affecting women and therefore cannot be considered discriminatory against women.⁶⁶ This interpretation fails to acknowledge that the “honourable motives” defense is disproportionately used as a mitigating defense for people who commit violence against women and is not a recognized justification for murder under international human rights law. Allowing mitigated sentencing excuses some of the worst forms of violence against women, and can deprive them of their right to life.⁶⁷

ii. Suggested Questions for the Government of Iraq

1. What measures has the Government taken to repeal article 409 as well as “articles 128, 130 and 131 of the Penal Code to ensure that perpetrators of crimes committed in the name of ‘honour’ cannot invoke the defense of honour as a mitigating circumstance for homicide”⁶⁸?

⁶² UNAMI & OHCHR, *Report on Human Rights in Iraq: July to December 2017*, at 11-12 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

⁶³ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 93 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

⁶⁴ See generally, Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

⁶⁵ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 26(b), UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

⁶⁶ Government of Iraq, *Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018*, paras. 151-152, UN Doc. CEDAW/C/IRQ/7 (Aug. 15, 2018).

⁶⁷ Belkis Wille, *Bride’s Killing in Iraq Shows New Law Needed*, Human Rights Watch (Aug. 8, 2018), <https://www.hrw.org/news/2018/08/08/brides-killing-iraq-shows-new-law-needed>; UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, para. 41, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018).

⁶⁸ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 20(b), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019); see also, UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 26(b), UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

2. What measures has the Government taken “to prevent ‘honour-related killings’ and to ensure that all perpetrators are brought to justice and punished”⁶⁹?

B. Forced, Temporary, and Early Marriage

Forced, temporary, and early marriages persist in Iraq. While Article 7 of the Personal Status Law No. 188 of 1959 sets the legal age for both men and women at 18 years, it allows for marriage of 15 year-olds with a guardian’s consent and judicial permission.⁷⁰ In Kurdistan, the 2011 Domestic Violence Law prohibits forced and early marriages,⁷¹ however advocates note that the law has not been adequately implemented and these practices are common.⁷² A 2016 study found an estimated 24 percent of Iraqi women between 20 and 24 reported having married or been in a union before the age of 18.⁷³ According to a 2018 survey conducted on 492 households in Basra, approximately 19 percent reported an incident of forced marriage in the previous year.⁷⁴ Poverty and tribal customs, including the practice of *fasliyya*, in which women are bartered as a means of resolving tribal disputes, play an aggravating role.⁷⁵

Many forced, temporary, and early marriages are conducted outside the courts.⁷⁶ Women in these unregistered marriages cannot obtain rights to alimony or widow’s benefits, and cannot register births of children produced from the marriage, compounding the human rights violations resulting from forced or early marriage.⁷⁷ Under the Personal Status Law, a forced marriage can be considered null and void only if it has not been consummated.⁷⁸ This leaves victims responsible for pursuing legal measures to leave the marriage, opening them up to potential retribution from their families.⁷⁹

⁶⁹ UN Human Rights Committee, *List of Issues in Relation to the Fifth Periodic Report of Iraq*, para. 8, UN Doc. CCPR/C/IRQ/Q/5 (Apr. 30, 2015).

⁷⁰ Iraq Personal Status Law No. 188, art. 7-8.

⁷¹ Act. No. 8 of 2011, art. 2

⁷² Correspondence with Iraqi human rights advocates (Apr. 30, 2020) (on file with MADRE).

⁷³ UN Children’s Fund (UNICEF), *The State of the World’s Children 2016*, at 151 (2016), https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf.

⁷⁴ PAX, *Human Security Survey Basra, Iraq – 2018 Key findings*, at 1 (2018), https://protectionofcivilians.org/wp/wp-content/uploads/2018/09/2018-HSS-Basra-placemat_final.pdf.

⁷⁵ Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, para. 30 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

⁷⁶ Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, para. 31-32 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

⁷⁷ Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, para. 31 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

⁷⁸ Iraq Personal Status Law No. 188, art. 9.

⁷⁹ Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, para. 31 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

Women and girls who were married to ISIL fighters—including those in coerced marriages—risk discrimination and forms of collective punishment.⁸⁰ UNAMI called for assistance at the local level to ensure fair treatment of these women and girls, and to streamline registration and annulment of their marriages and registration of the births resulting from them in a non-stigmatizing way.⁸¹

i. Response by the Government of Iraq

The Iraqi government states that the Personal Status Code (1959) addresses forced and early marriages.⁸² However, the Personal Status Code allows youth as young as 15 to marry with a judge's authorization.⁸³ In addition, forced marriages may be declared null and void under the Personal Status Code, but only if the marriage has not been consummated,⁸⁴ a provision particularly harmful to victims of marital rape. As recently as January 2017, members of the Council of Representatives in Iraq submitted amendments to the Personal Status Code that, had they been successful, would have lowered the age of marriage.⁸⁵ This followed a similarly unsuccessful attempt to amend the Personal Status Code in 2014 to set the legal age for marriage at nine for girls and to allow for temporary marriages.⁸⁶

ii. Suggested Questions for the Government of Iraq

1. What measures has the Government taken to “[a]dopt a comprehensive strategy to eliminate discriminatory stereotypes and all harmful practices, such as child marriage, temporary marriage ... [and] forced marriage...which includes awareness-raising and educational efforts targeting the general public, religious and community leaders and the media, in collaboration with civil society and women’s organizations”?⁸⁷

⁸⁰ UNAMI, *Human Rights, Every Day, for All Iraqis: Promotion and Protection of Rights of Victims of Sexual Violence Captured by ISIL/or in Areas Controlled by ISIL in Iraq*, para. 41 (Aug. 2017), https://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport22Aug2017_EN.pdf.

⁸¹ UNAMI, *Human Rights, Every Day, for All Iraqis: Promotion and Protection of Rights of Victims of Sexual Violence Captured by ISIL/or in Areas Controlled by ISIL in Iraq*, paras. 31-32, 41 (Aug. 2017), https://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport22Aug2017_EN.pdf.

⁸² Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 64, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

⁸³ Iraq Personal Status Law No. 188, art. 8.

⁸⁴ Iraq Personal Status Law No. 188, art. 9.

⁸⁵ UNAMI & OHCHR, *Report on Human Rights in Iraq: July to December 2017*, at 12 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

⁸⁶ UNAMI & OHCHR, *Report on Human Rights in Iraq: July to December 2017*, at 12 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>; See also, Haifa Zangana, *Ja'fari Law Takes the Iraqi Government's Violation of Women's Rights to a New Level*, THE GUARDIAN (Mar. 14, 2014), <https://www.theguardian.com/commentisfree/2014/mar/14/jafari-law-iraqi-violation-women-rights-marital-rape>; Human Rights Watch, *Iraq: Don't Legalize Marriage for 9-year-olds* (Mar. 11, 2014), <https://www.hrw.org/news/2014/03/11/iraq-dont-legalize-marriage-9-year-olds>.

⁸⁷ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 20(a), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

2. What steps has the Government taken to “ensure strict adherence to the legal provision that sets the minimum age for marriage for both sexes at 18 [and] provide for deterrent punishments for forced marriages... .”⁸⁸
3. What measures is the Government of Iraq taking to strengthen protections against forced, temporary and early marriages in its Personal Status Code, including eliminating the exception to annulment of forced marriages for those that have been consummated?

C. Trafficking and Forced Prostitution

Iraq ratified the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons⁸⁹ and passed its own anti-trafficking law, Trafficking in Persons Act No. 28 of 2012.⁹⁰ Under this law, the Government opened investigations into 356 trafficking cases from April 2018 to March 2019.⁹¹ Of the 148 identified victims, 74 were female victims of sexual exploitation.⁹² However, insufficient guidelines and training for officials on identifying victims, and inadequate referral mechanisms mean that these numbers do not reflect the total number of trafficking victims.⁹³ In 2018, the Kurdish parliament approved the 2012 Iraqi anti-trafficking law, but as of March 2019 had yet to develop the regulatory and enforcement framework for its implementation.⁹⁴

Trafficking survivors in Iraq lack access to basic protection, services, and justice; and they may become targets of prosecution for acts resulting from their trafficked status.⁹⁵ In 2018, for example, local experts in Iraq reported a significant number of prosecutions against trafficking survivors, and in 2019 survivors remained at high risk of criminalization and punishment.⁹⁶ First responders and judges are unaware of human trafficking legislation and do not enforce the laws

⁸⁸ UN Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 42, UN Doc. E/C.12/IRQ/CO/4 (Oct. 12, 2015); *see also*, UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 16, UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

⁸⁹ UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, art. 9(4), November 15, 2000, 2237 UNT.S. 319 (Iraq acceded to the Protocol on February 9, 2009).

⁹⁰ Law No. 28 of 2012, Combating Trafficking in Persons (Iraq), Apr. 23, 2012, IRQ-2012-L-94253, 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; Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 156, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

⁹¹ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁹² U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247-248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁹³ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁹⁴ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁹⁵ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁹⁶ U.S. Department of State, *Trafficking in Persons Report June 2018*, at 232 (2018), <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>; U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

appropriately.⁹⁷ Authorities have failed to identify trafficking victims among vulnerable populations and continue to imprison and prosecute them for acts traffickers forced them to commit.⁹⁸

Moreover, deficiencies in the Government's identification and referral procedures also prevent many victims from accessing care.⁹⁹ Investigative judges are the only authority who can officially identify and refer trafficking victims to protection services, and require the victim to testify in front of their perpetrators in court to make that determination.¹⁰⁰ Because of this requirement many victims do not come forward, fearing retaliation, and are left without access to protection services.¹⁰¹ Key government security officials have reportedly shielded traffickers from investigation and prosecution.¹⁰² The Iraqi government has not provided details on any efforts to investigate allegations of security and military personnel complicit in sexual exploitation and trafficking of women and girls in internally displaced persons camps.¹⁰³

In 2015, this Committee asked the Government of Iraq to “strengthen its efforts to combat, prevent, eradicate and punish trafficking in persons and forced labour ... ensure that all cases of human trafficking and forced labour are thoroughly investigated, that perpetrators are brought to justice, and that victims receive full reparation and means of protection, including access to adequately resourced shelters.”¹⁰⁴ It further recommended that the Government adopt “measures necessary to guarantee that victims, in particular victims of sex trafficking, are not punished for activities carried out as a result of having been subjected to trafficking”.¹⁰⁵

i. Response by the Government of Iraq

The Government states it has passed legislation to address trafficking, including the Trafficking in Persons Act No. 28 of 2012 and its draft implementing guidelines, Act No. 58 of 2017 concerning witness, expert and victim protection, and Regulation No. 7 of 2017 regarding shelters for trafficking victims.¹⁰⁶ Officials claim that one shelter is ready to admit survivors in Baghdad, with

⁹⁷ Finnish Immigration Service, *Overview of the Status of Women Living Without a Safety Net in Iraq*, at 28 (May 22, 2018), https://migri.fi/documents/5202425/5914056/Report_Women_Iraq_Migri_CIS.pdf/ab7712ba-bad7-4a1f-8c1f-f3f4013428a7/Report_Women_Iraq_Migri_CIS.pdf.

⁹⁸ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 246, 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁹⁹ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247-248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹⁰⁰ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹⁰¹ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹⁰² U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹⁰³ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 156-178, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019); U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹⁰⁴ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 32, UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

¹⁰⁵ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 32, UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

¹⁰⁶ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, paras. 156-157, para. 161 and paras. 171-172, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

fifteen social workers to attend to cases.¹⁰⁷ The Government is also refurbishing a shelter for trafficking victims in the Salikh neighbourhood, but does not provide a reopening date.¹⁰⁸ The Government also does not provide information on how many victims are housed in its shelters. According to one report, only seven recipients used one shelter in 2018,¹⁰⁹ and NGOs report that the shelters provided inadequate psychosocial, medical, and vocational support to recipients.¹¹⁰

The Government states that it has established committees for investigating human trafficking crimes and authorized them to deploy teams to collect information and data in coordination with other security agencies, monitor violations and arrest perpetrators.¹¹¹ However, officials do not provide any data detailing the activities or the effectiveness of these committees. Furthermore, the State party report provides outdated data from 2016 on investigations of human trafficking cases.¹¹² Moreover, trafficking survivors continue to lack access to basic services, protection and justice.¹¹³ While the Government of Iraq states that victims of sex trafficking “shall be considered as victims of human trafficking and, therefore, not prosecuted for associated crimes such as coercion into vice and prostitution.”¹¹⁴ Officials fail, however to provide information on specific measures to ensure there is no conflation of these circumstances, and significant numbers of victims continue to be criminalized.¹¹⁵

ii. Suggested Questions for the Government of Iraq

1. What steps is the Government of Iraq taking to ensure that survivors of trafficking have access to basic protection and services, including by enacting measures to create care centers as required under Trafficking in Persons Act No. 28 of 2012 and its regulations?

¹⁰⁷ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, paras. 165-166, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁰⁸ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 160, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁰⁹ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹¹⁰ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹¹¹ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 162, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹¹² Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 163, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

“[A] total of 314 cases were recorded and 347 persons charged of whom 83 were sent for trial and 17 were convicted; 73 persons were released, 95 referred to other bodies, 19 held pending further investigation and 60 released on bail. Under the Act, sentences vary – in accordance with the type of act committed and how it is criminalized in law – from a term of imprisonment and a fine of between ID 5 million and 25 million to life imprisonment and even the death penalty, if the act committed leads to the victim’s death.” at para. 163.

¹¹³ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹¹⁴ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 178, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹¹⁵ U.S. Department of State, *Trafficking in Persons Report June 2018*, at 232 (2018), <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>; U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

2. How many trafficking survivors has the Government of Iraq provided shelter and protection services to in the period between 2018-2019 and how many victims and witnesses have been provided witness protection under the Act No. 58 of 2017?
3. What steps is the Government of Iraq taking to ensure survivors of sex trafficking are not criminalized and wrongly prosecuted for prostitution or other acts committed under compulsion of their trafficker?
4. What measures is the Government taking to systematically compile and analyze disaggregated data on trafficking in women and girls?
5. What steps is the Government of Iraq taking to end government officials' complicity in trafficking crimes?

D. Slavery

This Committee, during its review of Iraq in 2015, expressed concern about ISIL's grave crimes, including enslavement.¹¹⁶ Committee members asked the Government of Iraq to ensure that "[a]ll serious human rights violations are independently, promptly and thoroughly investigated, that perpetrators are brought to justice and adequately sanctioned as soon as feasible, and that victims receive full reparation."¹¹⁷

That same year, the UN Committee on the Rights of the Child called on the Government of Iraq to rescue child victims of sexual enslavement and hold perpetrators accountable.¹¹⁸ Committee members condemned the markets ISIL formed, "in which they [sold] abducted children and women after attaching price tags to them; and the sexual enslavement of children detained in makeshift prisons of ISIL."¹¹⁹ The UN Committee Against Torture (CAT) raised concerns about slavery and impunity for other sexual and gender-based crimes, and called for the Government of Iraq to hold all perpetrators accountable.¹²⁰ However, Iraq does not have legislation criminalizing

¹¹⁶ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 19, UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015). *See*, Patricia Viseur Sellers & Jocelyn Getgen Kestenbaum, *Sexual Slavery and Customary International Law*, Prosecuting the President: The Trial of Hissène Habré, Yeshiva University, Cardozo School of Law, at 12 (2020), <https://larc.cardozo.yu.edu/cgi/viewcontent.cgi?article=1089&context=faculty-chapters>.

"Today, the Islamic State ("IS") has even revived the past practice of legal enslavement of women and girls, which includes sexual access under specific conditions as part of the group's assertion of the Caliphate in Iraq and Syria. According to IS publications, fighters have captured, sorted, sold or gifted Yazidi women and children as 'spoils of war' or sabaya. The IS Committee for the Buying and Selling of Slaves has organized the Yazidi slave markets and allowed a local committee and commander to preregister IS fighters before placing their bids to purchase slaves." at 12.

¹¹⁷ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 20(a), UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

¹¹⁸ UN Committee on the Rights of the Child, *Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq*, para. 45, UN Doc. CRC/C/IRQ/CO/2-4 (Mar. 3, 2015).

¹¹⁹ UN Committee on the Rights of the Child, *Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq*, para. 44, UN Doc. CRC/C/IRQ/CO/2-4 (Mar. 3, 2015).

¹²⁰ UN Committee Against Torture, *Concluding Observations on the Initial Report of Iraq*, para. 13, UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015).

acts of enslavement inside of Iraq causing a lack of accountability.¹²¹

Existing laws such as the Iraqi anti-trafficking law¹²² are improper and inadequate to prosecute the conduct of enslavement. International legal experts have recognized that anti-trafficking laws do not capture the breadth of wrongdoing that the crimes of the slave trade and slavery (enslavement) were designed to address.¹²³ Anti-trafficking laws conflate the international crimes of the slave trade and slavery with the transnational crime of human trafficking. The legal mischaracterization may lead to ineffective justice because it fails to redress the entirety of harms that victims suffered from when enslaved.¹²⁴

Iraq's Law No. 28 of 2012, on Combating Trafficking in Persons - defines the crime of "human trafficking" as "recruiting, transporting, housing, or receiving individuals *by force, threat to use force ... in order to sell and exploit the trafficked individuals* by means of ... sexual abuse, ... *enslavement... or by other means.*"¹²⁵ One of the key legal elements necessary to prove that the crime of human trafficking has been committed is that the alleged perpetrator must have trafficked the victim by using some of form of force, coercion or fraud.¹²⁶ While consent is not a permissible defense to human trafficking,¹²⁷ there are signs and anecdotal evidence that judges do weigh the factor of consent in their investigations. For example, an Iraqi investigative judge recently reported

¹²¹ Iraq Penal Code (Iraq), section 4, art. 13, July 1969, No. 111 of 1969, <https://www.refworld.org/docid/452524304.html>.

"In circumstances other than those stipulated in Articles 9, 10 and 11, the provisions of this Code are applicable to all those who enter Iraq subsequent to committing an offence abroad whether as principals or accessories to the following offences: Destroying or causing damage to international means of communications or trading in women, children, slaves or drugs."

¹²² Law No. 28 of 2012, Combating Trafficking in Persons (Iraq), Apr. 23, 2012, IRQ-2012-L-94253, 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.

¹²³ See, Cardozo Law Institute in Holocaust and Human Rights, *Memo on comments to the United Nations Crimes against Humanity (CAH) Treaty draft concerning enslavement and related crimes*, at 2 (Nov. 30, 2018) (on file with MADRE).

¹²⁴ See, Cardozo Law Institute in Holocaust and Human Rights, *Memo on comments to the United Nations Crimes against Humanity (CAH) Treaty draft concerning enslavement and related crimes* (Nov. 30, 2018) (on file with MADRE).

¹²⁵ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 156, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019); Law No. 28 of 2012, Combating Trafficking in Persons (Iraq), art.1 (First), Apr. 23, 2012, IRQ-2012-L-94253, 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.

"First: For purposes of this law, the term "Human Trafficking" shall indicate recruiting, transporting, housing, or receiving individuals by force, threat to use force, or other means, including by coercion, kidnapping, fraud, deception, misuse of power, exchange of money, or privileges to an influential person in order to sell and exploit the trafficked individuals by means of prostitution, sexual abuse, unpaid labor, forced labor, enslavement, beggary, trading of human organs, medical experimentation, or by other means."

¹²⁶ See, Cardozo Law Institute in Holocaust and Human Rights, *Memo on comments to the United Nations Crimes against Humanity (CAH) Treaty draft concerning enslavement and related crimes*, at 2 (Nov. 30, 2018) (on file with MADRE).

¹²⁷ Law No. 28 of 2012, Combating Trafficking in Persons (Iraq), art. 10, Apr. 23, 2012, IRQ-2012-L-94253, 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. "Consent by a victim to human trafficking shall not be accepted as a defense."

that he interpreted it to be the responsibility of investigative judges to ask questions about consent of the victim to capture the full facts in these cases.¹²⁸

Such questions of consent, coercion or fraud are not pertinent to establish the crimes of the slave trade and slavery.¹²⁹ The legal requirements of the slave trade and slavery lie in the perpetrators' intent and not the mental state of the victims.¹³⁰ In court, inquiries about the mental state or coercive circumstance could be psychologically harmful and inhibit victims from providing meaningful testimony about how perpetrators reduced or traded them into slavery and about abuse endured during enslavement. Some victims will be excluded altogether.

While Iraq's Constitution prohibits slavery and the slave trade,¹³¹ and Iraqi law does recognize universal jurisdiction for trading in women, children, and enslaved people when committed outside of Iraq,¹³² there is no penal code provision criminalizing slavery. Furthermore, while the anti-trafficking law lists enslavement and sexual abuse as forms of exploitation resulting from human trafficking, the law itself does not criminalize enslavement or sexual abuse.¹³³ These inadequacies in the anti-trafficking law create an impunity gap. Persons who were enslaved, not through trafficking but by other means, may be excluded altogether from accessing justice under the anti-trafficking law.

Were the Government to consider passing a law solely on sexual slavery, it could limit the examination of the range of gender-based violence experienced by enslaved persons.¹³⁴

¹²⁸ Interview with Iraqi judge (Sept. 16, 2019) (on file with MADRE) (name omitted for safety reasons).

¹²⁹ See, Cardozo Law Institute in Holocaust and Human Rights, *Memo on comments to the United Nations Crimes against Humanity (CAH) Treaty draft concerning enslavement and related crimes*, at 2 (Nov. 30, 2018) (on file with MADRE).

¹³⁰ See, Cardozo Law Institute in Holocaust and Human Rights, *Memo on comments to the United Nations Crimes against Humanity (CAH) Treaty draft concerning enslavement and related crimes*, at 2 (Nov. 30, 2018) (on file with MADRE).

¹³¹ Constitution of the Republic of Iraq (Iraq), art. 37 (Third), October 15, 2005, IRQ-2005-C-73414, <https://constitutions.unwomen.org/en/countries/asia/iraq>. "Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited."

¹³² Iraq Penal Code (Iraq), section 4, art. 13, July 1969, No. 111 of 1969, <https://www.refworld.org/docid/452524304.html>. "In circumstances other than those stipulated in Articles 9, 10 and 11, the provisions of this Code are applicable to all those who enter Iraq subsequent to committing an offence abroad whether as principals or accessories to the following offences: Destroying or causing damage to international means of communications or trading in women, children, slaves or drugs."

¹³³ Law No. 28 of 2012, Combating Trafficking in Persons (Iraq), art. 10, Apr. 23, 2012, IRQ-2012-L-94253, 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. "Consent by a victim to human trafficking shall not be accepted as a defense."

¹³⁴ Patricia Viseur Sellers & Jocelyn Getgen Kestenbaum, *Sexual Slavery and Customary International Law*, Prosecuting the President: The Trial of Hissène Habré, Yeshiva University, Cardozo School of Law, at 15 (2020), <https://larc.cardozo.yu.edu/cgi/viewcontent.cgi?article=1089&context=faculty-chapters>.

"While enumeration of sexual slavery as a separate crime does emphasize its visibility and initiates momentum toward its eradication, this more contemporary legal separation may hinder a fuller comprehension of slavery in all of its dimensions. Sexual access is inherent in—or at times is the *raison d'être* of certain forms of—slavery. Historically, as explained *supra*, the slavery endured by females and males in the New World often enmeshed manual labor, sexual access and, reproductive control under powers exercised by a perpetrator-slave owner. The specific codification today in international criminal law tends to decouple hard manual slave labor, often misconceived of and conflated with the term chattel slavery, from physical or psychological sexual violence that a

Experiences of enslavement are inherently gendered and the violence that enslaved women face goes beyond specific acts of sexual assault.¹³⁵ For example, in addition to sexual violence, women and girls held in sexual slavery by ISIS were forced to perform various humiliating acts for their owners, strip naked,¹³⁶ forcibly consume drugs to hasten physical maturation,¹³⁷ undergo forced physical examinations, and experience the trauma and humiliation of being sold and re-sold.¹³⁸ These crimes of slave trade and slavery are gendered and must be recognized and accounted for.

An inadequate law could also lead to impunity for the range of perpetrators involved in the slave trade, such as: 1) the organizers of the slave trading markets; 2) the administrators of the registration and holding centres; and 3) the drafters of the manifesto and procedural manual for

“manual” slave must endure. Such decoupling can be problematic in that it fails to understand the nature of slavery in all its forms, and that sexualized violence is but one mechanism of exercising control (i.e. powers attaching to the right of ownership) over a person. The desuetude of redressing slavery based upon sexual access and violence accounts for a legally and practically misguided extraction of sexual slavery from the crimes of slavery and enslavement.” at 15.

¹³⁵ Patricia Viseur Sellers & Jocelyn Getgen Kestenbaum, *Sexual Slavery and Customary International Law*, Prosecuting the President: The Trial of Hissène Habré, Yeshiva University, Cardozo School of Law, at 11 (2020), <https://larc.cardozo.yu.edu/cgi/viewcontent.cgi?article=1089&context=faculty-chapters>. “Ownership over slaves extended to whatever labor or service that masters forced slaves to render; thus, slave ownership included complete sexual and reproductive proprietorship. Sexual access and reproductive control may be the indicia of the slavery in question.” at 11.

See, Patricia Sellers, *Wartime Female Slavery: Enslavement*, 44 Cornell Int’l L. J. 115, 124 (2011), <https://www.lawschool.cornell.edu/research/ILJ/upload/Sellers-final-version.pdf>.

“Contemplating these legal principles jointly underscores the international community’s intent to outlaw all forms of slavery, and in particular, female slavery. Nonetheless, a common misunderstanding persists— that chattel, or labor-intensive slavery, and sexual slavery are mutually exclusive. The post-World War II legal instruments aimed at penalizing female slavery duplicitously diluted and injected confusion into the meaning of slavery and enslavement, preventing the explicit identification of all forms of female enslavement as the 1926 Slavery Convention had intended. For example, the 1957 Supplementary Convention refers to “institutions and practices similar to slavery,” rather than solely incorporating the word “slavery” or the term, “trafficking.” This treatment renders its prohibition linguistically weaker and legally porous. Females, both women and girls, who are transferred, inherited, or delivered into situations that the Supplementary Convention sought to abolish are nothing less than enslaved persons. The Supplementary Convention’s “institutions and practices” language importantly illuminates some of the gendered experiences of female slavery.” at 124.

See, Patricia Sellers & Jocelyn Getgen Kestenbaum, *Missing in Action: The International Crime of the Slave Trade*, International Journal of Criminal Justice (forthcoming 2020).

¹³⁶ See, e.g., Adam Withnall, *ISIS Sex Slaves 'sold at market for as little as a pack of cigarettes' as Life under Jihadis is Exposed*, INDEPENDENT (June. 9, 2015), <https://www.independent.co.uk/news/world/middle-east/isis-sex-slaves-sold-at-market-for-as-little-as-a-pack-of-cigarettes-as-life-under-jihadis-is-10306639.html>. “UN envoy on sexual violence, said she had been to Syria and Iraq in recent months and found a war “being fought on the bodies of women.” N.M., *I Was an ISIS Sex slave. I Tell My Story Because it is the Best Weapon I Have*, THE GUARDIAN, (Oct. 6, 2018), <https://www.theguardian.com/commentisfree/2018/oct/06/nadia-murad-isis-sex-slave-nobel-peace-prize>.

¹³⁷ Fred Strasser, United States Institute of Peace, *ISIS Makes Sex Slavery Key Tactic of Terrorism Action against Violent Extremism Must Address Abuse of Women*, UN Official Says (Oct. 6, 2016), <https://www.usip.org/publications/2016/10/isis-makes-sex-slavery-key-tactic-terrorism>.

¹³⁸ Office of the Special Representative of the UN Secretary General on Sexual Violence in Conflict, *Escaping From ISIL, a Yazidi Sexual Violence Survivor Rebuilds Her Life* (Jul. 10, 2018), <https://www.un.org/sexualviolenceinconflict/escaping-from-isil-a-yazidi-sexual-violence-survivor-rebuilds-her-life/>.

ISIL fighters on the treatment and disposal of the as “spoils of war” or *sabaya*.¹³⁹ These potential accused escape liability for their culpable acts of the slave trade and slavery under the anti-trafficking law or under a law that only criminalizes sexual slavery and excludes the entirety of the legal safeguard of an enslavement law.

To address this gap in accountability, Iraq should pass a law on enslavement following the principles contained in the Slavery Convention of 1926 and its Supplementary Convention that prohibits and defines enslavement as including slavery, the slave trade, as well as other practices around slavery.¹⁴⁰ Such a law would more fully align the Iraqi constitutional precepts concerning slavery and the slave trade¹⁴¹ and the national criminal code proscription of trade in slaves¹⁴² with the penal codes jurisdiction over crimes committed in Iraq. It would close the impunity gap that Iraq’s anti-trafficking law leaves open and would account for sexual and gender-based violence experiences of enslaved persons.

i. Response by the Government of Iraq

In response to this Committee’s recommendation that the Government of Iraq investigate all serious human rights violations including enslavement and bring perpetrators to justice,¹⁴³ the Government claims broadly that it has taken necessary legal steps to investigate serious human

¹³⁹ See, HRGJ Clinic, CUNY School of Law, MADRE & OWFI, *Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq*, paras. 46, 75-78 (2017), <https://www.madre.org/sites/default/files/PDFs/ICC%20Petition%20with%20Sept%2010%20Addendum.pdf>; see, Patricia Viseur Sellers & Jocelyn Getgen Kestenbaum, *Sexual Slavery and Customary International Law*, Prosecuting the President: The Trial of Hissène Habré, Yeshiva University, Cardozo School of Law, at 12 (2020), <https://larc.cardozo.yu.edu/cgi/viewcontent.cgi?article=1089&context=faculty-chapters>.

“According to IS publications, fighters have captured, sorted, sold or gifted Yazidi women and children as “spoils of war” or *sabaya*. The IS Committee for the Buying and Selling of Slaves has organized the Yazidi slave markets and allowed a local committee and commander to preregister IS fighters before placing their bids to purchase slaves.” at 12.

¹⁴⁰ See, Convention to Suppress the Slave Trade and Slavery, Sept., 25, 1926, 212 UNT.S. 17 (Iraq signed the Convention on May 23, 1955) (hereinafter Slavery Convention 1926), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx>; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Apr. 30, 1957, 266 UNT.S. 3 (Iraq signed ratified it on September 30, 1963) (hereinafter Supplementary Convention), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/SupplementaryConventionAbolitionOfSlavery.aspx>.

¹⁴¹ Constitution of the Republic of Iraq (Iraq), art. 37 (Third), Oct. 15, 2005, IRQ-2005-C-73414, <https://constitutions.unwomen.org/en/countries/asia/iraq>. “Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited.”

¹⁴² Iraq Penal Code (Iraq), section 4, art. 13, July 1969, No. 111 of 1969, <https://www.refworld.org/docid/452524304.html>.

“In circumstances other than those stipulated in Articles 9, 10 and 11, the provisions of this Code are applicable to all those who enter Iraq subsequent to committing an offence abroad whether as principals or accessories to the following offences: Destroying or causing damage to international means of communications or trading in women, children, slaves or drugs.”

¹⁴³ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, paras. 19-20(a), UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

rights violations.¹⁴⁴ However, there is no information provided on any cases or ongoing prosecutions for the crime of enslavement.

ii. Suggested Questions for the Government of Iraq

1. What measures is the Government of Iraq taking to enact the draft law on survivors of ISIL crimes in accordance with international standards, including the Slavery Convention of 1926 and its Supplementary Convention?
2. Does the draft law on survivors of ISIL crimes include provisions to hold ISIL fighters accountable for the sexual and gender-based crime of enslavement including slavery and slave trade?
3. What measures is the Government of Iraq taking to ensure that all serious human rights violations committed by ISIL are independently, promptly and thoroughly investigated, that perpetrators are brought to justice?
4. What measures is the Government of Iraq taking to ensure that women and girls who have fled ISIL have access to shelter, medical and psychological care, and rehabilitation services, without discrimination on the basis of gender or other status?

E. The Government of Iraq's Failure to Prosecute Sexual and Gender-Based Violence Committed by ISIL and Protect Victims

Despite plentiful evidence with which to indict,¹⁴⁵ ISIL fighters have not been prosecuted for sexual and gender-based crimes committed in Iraq.¹⁴⁶ Instead, ISIL fighters are charged under counter-terrorism laws and tried in domestic trials.¹⁴⁷ Convictions are based on the accused's ties to ISIL, rather than on the specific nature and type of crimes committed, and do not take into

¹⁴⁴ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, paras. 30-31, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁴⁵ MADRE, CUNY School of Law, OWFI and other supporting organizations documented these crimes committed by ISIL in an Article 15 Communication to the International Criminal Court. HRGJ Clinic, CUNY School of Law, MADRE & OWFI, *Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq* paras. 2, 55 (2017), <https://www.madre.org/sites/default/files/PDFs/ICC%20Petition%20with%20Sept%2010%20Addendum.pdf>. The UN Refugee Agency has cited this documentation, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq* (May, 2019), <https://www.refworld.org/docid/5cc9b20c4.html>. The UN Investigative Team for the Promotion of Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) has requested copies to support their own documentation efforts.

¹⁴⁶ UN Secretary-General, *Conflict-Related Sexual Violence*, para. 25, UN Doc. S/2019/280 (Mar. 29, 2019).

¹⁴⁷ UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL*, at 10 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf; See also, *Open Letter to the UN Security Council on the Government of Iraq's Prosecutions of ISIS Fighters* (Jun. 13, 2018), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraqs-prosecutions>; Margaret Coker and Falih Hassan, *A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects*, NY TIMES (Apr. 17, 2018), <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>.

account the nature of the accused's connection to ISIL, such as through coercion or family relations.¹⁴⁸ This low bar for mass conviction means that courts are not investigating these most egregious crimes, including gender-based crimes.¹⁴⁹ Additionally, victims are often uninformed of when or where alleged perpetrators are being brought to trial, denying them the opportunity to participate.¹⁵⁰

Women and girl survivors of ISIL's gender-based crimes remain vulnerable to discrimination and social stigma because of their perceived ties to ISIL.¹⁵¹ For example, though a Yazidi spiritual leader called for the reintegration of women and girl survivors of ISIL enslavement, survivors still reportedly experience stigma and discrimination.¹⁵² Even women in displacement camps who are perceived to have ties to ISIL—sometimes, for example, for having fled areas believed to be ISIL-controlled—are denied access to health care, food, and water, and face sexual violence and harassment.¹⁵³ Some of these women and families cannot return home out of fear of reprisals or direct threats to their lives,¹⁵⁴ and some report that this lack of reintegration caused them to consider suicide.¹⁵⁵

i. Response by the Government of Iraq

In its report to the Committee, the Government details its reliance on counter-terrorism courts and the death penalty as punishment for perpetrators of acts of terror, and claims that “prompt and impartial interrogations of persons suspected of serious human rights violations” are referred to the “competent courts” for punishment under the law.¹⁵⁶ However, the Government fails to address the staggering scope of the use of these courts to prosecute ISIL fighters, thereby focusing only on

¹⁴⁸ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 35 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL*, at 10 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf; Margaret Coker and Falih Hassan, *A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects*, NY TIMES (Apr. 17, 2018), <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>.

¹⁴⁹ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, at 4, 21 (Dec. 2017), <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

¹⁵⁰ UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL*, at 13 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf; Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, at 54 (Dec. 2017), <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

¹⁵¹ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 90 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

¹⁵² UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 90 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

¹⁵³ Amnesty International, *The Condemned: Women and children isolated, trapped and exploited in Iraq*, at 5 (Apr. 2018), <https://www.amnesty.org/download/Documents/MDE1481962018ENGLISH.PDF>.

¹⁵⁴ Amnesty International, *The Condemned: Women and children isolated, trapped and exploited in Iraq*, at 6 (Apr. 2018), <https://www.amnesty.org/download/Documents/MDE1481962018ENGLISH.PDF>.

¹⁵⁵ Amnesty International, *The Condemned: Women and children isolated, trapped and exploited in Iraq*, at 6 (Apr. 2018), <https://www.amnesty.org/download/Documents/MDE1481962018ENGLISH.PDF>.

¹⁵⁶ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 26, 30, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

terrorism and not other distinct crimes. The Government also fails to address the lack of victim inclusion in these proceedings.¹⁵⁷

The Government asserts that in 2016 it established a commission of religious, community, tribal and political leaders in the Nineveh governorate “to address problems arising from the presence of ISIL” and “the resulting damage to the social fabric there...aimed at creating unity among the people of Nineveh and at overcoming the negative effect of the actions of ISIL.”¹⁵⁸ While this effort can be seen as recognizing the need for healing in communities, this is limited to one region and fails to include justice as a component of community healing and sustainable peace. The Government also states that “[s]teps have been taken to ensure that women and girls freed from the clutches of ISIL, as well as children abducted by that terror group, receive the support they need to ensure their physical and psychological recovery and reintegration.”¹⁵⁹ However, this recovery and reintegration are not possible under the current reliance on counter-terrorism courts that do not meaningfully acknowledge the full scope of crimes committed. For example, despite government efforts to provide services for internally displaced persons affected by ISIL,¹⁶⁰ victims of SGBV and women perceived to be associated with ISIL have been prevented from reintegrating into their homes and communities.¹⁶¹

Iraqi civil society organizations and members of the international community are calling for transparent and fair trials that acknowledge SGBV crimes committed by ISIL and the impacts they have on victims.¹⁶² The UN Secretary-General echoed this recommendation in his 2018 annual report on conflict-related sexual violence.¹⁶³ Civil society organizations have called upon the Iraqi government to pass the appropriate national laws that criminalize SGBV crimes,¹⁶⁴ including the

¹⁵⁷ See generally, Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁵⁸ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 35, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁵⁹ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 32, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁶⁰ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, paras. 187-192, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁶¹ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 90 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; Amnesty International, *The Condemned: Women and children isolated, trapped and exploited in Iraq*, at 5-6 (Apr. 2018), <https://www.amnesty.org/download/Documents/MDE1481962018ENGLISH.PDF>.

¹⁶² *Open Letter to the UN Security Council on the Government of Iraq's Prosecutions of ISIS Fighters* (Jun. 13, 2018), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraqs-prosecutions>; See also, FIDH & Kinyat Organization for Documentation, *Iraq Sexual and Gender-Based Crimes against the Yazidi Community: The Role of ISIL Foreign Fighters*, at 41-43 (Oct. 2018), <https://www.fidh.org/IMG/pdf/irak723angweb.pdf>.

¹⁶³ The UN Secretary-General stated,

“I call upon the Government [of Iraq] to ensure that offenses of sexual violence are prosecuted as standalone crimes, including in the context of terrorism trials, and that services, including shelters operated in collaboration with women’s civil society groups, are protected and scaled up as part of efforts to ensure the socioeconomic reintegration of women and children released from ISIL captivity and to refrain from recording prejudicial information on birth certificates.” UN Secretary-General, *Report of the Secretary-General on Conflict-Related Sexual Violence*, para. 46, UN Doc. S/2018/250 (Apr. 16, 2018).

¹⁶⁴ *Open Letter to the UN Security Council on the Government of Iraq's Prosecutions of ISIS Fighters* (Jun. 13, 2018), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraqs-prosecutions>.

incorporation of international crimes into the national penal code.¹⁶⁵

ii. Suggested Questions for the Government of Iraq

1. What efforts is the Government making to hold ISIL fighters accountable for sexual and gender-based crimes and other internationally recognized crimes in its prosecutions of them?
2. What efforts is the Government making to ensure comprehensive justice and reparations to victims and communities affected by ISIL, ensuring full recognition of sexual and gender-based crimes and active participation of victims and communities?
3. What steps has the Government taken to reintegrate victims of SGBV and women and families perceived to be affiliated with ISIL back into their communities, while ensuring that they do not face additional discrimination, stigma, or rights violations while living in displacement camps?

IV. DENIAL OF SAFE SHELTER FOR PERSONS FLEEING DOMESTIC VIOLENCE INCLUDING “HONOR” KILLINGS (ARTS. 2, 3, 6, 7, 12, & 26)

In the aftermath of the ISIL conflict and in the absence of adequate government services, some women at risk of “honor” killings have been kept in prisons and detention centers instead of shelters as a means to protect them.¹⁶⁶ Iraqi non-governmental organizations (NGOs) have been trying to fill this gap and providing shelters and necessary protection services for victims fleeing violence.¹⁶⁷ The Government of Iraq has recognized its reliance on local NGOs to provide services to survivors of gender-based violence. In 2015, when asked about shelter availability by the UN Economic, Social, and Cultural Rights Committee, Government representatives responded that Organization of Women’s Freedom in Iraq (OWFI), an NGO that runs private shelters, is helping to meet survivors’ needs in central and southern Iraq.¹⁶⁸

¹⁶⁵ See generally, Institute for International Criminal Investigations, *Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Guidance for Practitioners in Iraq*, at 15 (Mar. 2018), https://iici.global/0.5.1/wp-content/uploads/2018/03/Iraq-IP2-Supplement_English_Online.pdf; FIDH & Kinyat Organization for Documentation, *Iraq Sexual and Gender-Based Crimes against the Yazidi Community: The Role of ISIL Foreign Fighters*, at 50 (Oct. 2018), <https://www.fidh.org/IMG/pdf/irak723angweb.pdf>.

¹⁶⁶ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 93 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; UN General Assembly, *Technical Assistance Provided to Assist in the Promotion and Protection of Human Rights in Iraq: Report of the United Nations High Commissioner for Human Rights*, para. 29, UN Doc. A/HRC/30/66 (Jul. 27, 2015), www.refworld.org/docid/55f7f4c74.html.

¹⁶⁷ *Open Letter to the U.N. Security Council on the Government of Iraq’s NGO Shelter Policy*, (October 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>.

¹⁶⁸ UN Economic, Social, and Cultural Rights Committee, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 39, UN Doc. E/C.12/IRQ/CO/4 (Oct. 27, 2015).

In 2011, the Kurdish Regional Government (KRG) passed the Domestic Violence Act No. 8 of 2011 that required the government to provide shelters for victims of domestic violence.¹⁶⁹ While the law does not explicitly allow for NGOs to run shelters, in 2014, KRG issued a decree clarifying that NGOs could provide shelters.¹⁷⁰

Inside Iraq, however, Government officials have interpreted public policy to mean that *only* the Government may provide shelter and have raided,¹⁷¹ attacked and threatened¹⁷² NGO-run shelters. Police and security forces that find women housed in privately-run shelters may send them back to their families, from whom they are fleeing in the first place.¹⁷³ Police harassment of such facilities not only puts staff and residents at risk, but it forces them to routinely relocate.¹⁷⁴ The lack of legal protection also puts shelter staff and residents at risk of armed actor violence. On October 28, 2017, a group of about 50 armed men raided OWFI headquarters in Al Saadon in Baghdad.¹⁷⁵ After searching the headquarters the men kidnapped an OWFI staff member, held him for ransom, and forced OWFI to negotiate for his release.¹⁷⁶

When the Government has opened shelters for human trafficking victims, it has provided limited protection services and inadequate psychosocial, medical and other services.¹⁷⁷ In February 2019, women that stayed in a Government shelter reported to human rights advocates that judges in their cases insisted on calling their families and reporting their whereabouts.¹⁷⁸

¹⁶⁹ Law No. 8 of 2011, Act of Combatting Domestic Violence in Kurdistan Region-Iraq, (Iraq), art. 3(2), June 21, 2011, <https://www.refworld.org/docid/5b2911044.html>. “The Ministry of Labour and Social Affairs must provide shelter to the victims of domestic violence.” Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, para. 8 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

¹⁷⁰ *Open Letter to the U.N. Security Council on the Government of Iraq’s NGO Shelter Policy*, (October 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>.

¹⁷¹ *Open Letter to the UN Security Council on the Government of Iraq’s NGO Shelter Policy* (Oct. 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>.

¹⁷² UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 87 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

¹⁷³ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 87-88 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; See, *Open Letter to the UN Security Council on the Government of Iraq’s NGO Shelter Policy* (Oct. 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>.

¹⁷⁴ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 21(c), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

¹⁷⁵ UNAMI, *Report on Human Rights in Iraq: July to December 2017*, at 13 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

¹⁷⁶ *Open Letter to the U.N. Security Council on Shelter Raids in Iraq* (Dec. 2017), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-shelter-raids-iraq>.

¹⁷⁷ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹⁷⁸ Interview with Iraqi women’s advocate (February 4, 2019) (on file with MADRE) (name omitted for safety reasons).

A. Call for Shelter for SGBV Survivors by UN Treaty Bodies

The UN CAT Committee has found that the lack of shelters could exacerbate the risk of torture and violate a state's obligation to protect and prevent torture.¹⁷⁹ In 2015, the Committee made an unprecedented decision, in response to the dangers women victims faced in the absence of shelter in Iraq, by calling on the Iraqi government to legally permit privately run shelters.¹⁸⁰ This Committee followed suit during its review of Iraq in 2015, voicing concern about the prohibition of NGO-run shelters for domestic violence victims, and calling on the Government to ensure victims have access to State and NGO-run shelters and to adopt the pending draft law on domestic violence.¹⁸¹

In 2016, after briefing members of the Informal Experts Group of the UN Security Council, UNAMI invited OWFI to provide input on a draft law on domestic violence. OWFI recommended adding a phrase to the law that would clarify that non-governmental organizations are authorized to operate shelters for women and girl survivors of gender-based violence.¹⁸² A December 2016 letter to the UN Secretary-General from the Permanent Representatives of Spain and the United Kingdom to the United Nations, co-chairs of the Informal Expert Group on Women and Peace and Security, noted the on-going delays in adopting the law with provisions for shelter.¹⁸³ In June 2017, UNAMI brought attention to the lack of legal coverage for NGO-run shelters and reiterated its support for adoption of the draft anti-domestic violence law with the amendment on NGO-run shelters.¹⁸⁴ In 2018, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions viewed the lack of proper laws and authorization to run shelters as the Government of Iraq's failure to act with due diligence and respect women's right to life.¹⁸⁵

Despite five years of calls for policy change from international human rights treaty bodies and experts,¹⁸⁶ the situation remains the same. In November 2019, the UN CEDAW Committee

¹⁷⁹ Lisa Davis, *The Paradox of Crisis: Countering Iraq's Anti-Shelter Policy in the Era of ISIS*, 2 COLUMBIA UNIV. J. INT'L AFFAIRS, 70, 5 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3185731.

¹⁸⁰ UN Committee Against Torture, *Concluding Observations on the Initial Report of Iraq, Advanced Unedited Version*, para. 24(d), UN Doc. CAT/C/IRQ/CO/1 (Aug. 14, 2015).

¹⁸¹ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 25, 26(a)-(b) UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

¹⁸² Lisa Davis, *The Paradox of Crisis: Countering Iraq's Anti-Shelter Policy in the Era of ISIS*, 2 COLUMBIA UNIV. J. INT'L AFFAIRS, 70, 8 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3185731.

¹⁸³ UN Security Council, *Letter Dated 22 December 2016 from the Permanent Representatives of Spain and the United Kingdom of Great Britain and Northern Ireland to the United Nations Addressed to the Secretary-General*, at 3, UN Doc. S/2016/1104 (Dec. 27, 2016).

¹⁸⁴ UN Security Council Informal Experts Group on Women, Peace and Security, *Summary of June 14th Meeting in Iraq*, at 3-4, UN Doc. S/2017/624 (July 21, 2017).

¹⁸⁵ UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, para. 44, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018).

¹⁸⁶ See, UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 22 (b), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019); UN Committee Against Torture, *Concluding Observations on the Initial Report of Iraq*, para. 24(d), UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015); UN Security Council, *Letter Dated 22 December 2016 from the Permanent Representatives of Spain and the United Kingdom of Great Britain and Northern Ireland to the United Nations Addressed to the Secretary-General*, at 3, UN Doc. S/2016/1104 (Dec. 27, 2016); and UN Special Rapporteur on Extrajudicial, Summary or

observed with concern the “insufficient number and capacity of State-run shelters for victims of gender-based violence.”¹⁸⁷ The Committee noted “the fact that shelters run by non-governmental organizations to respond to the needs of women and girls who are survivors of violence, including ISIL victims, have been forced routinely to relocate in order to ensure the safety of both victims and staff members.”¹⁸⁸

i. Response by the Government of Iraq

Iraq’s National Action Plan for the Implementation of the UN Security Council Resolution 1325 on Women, Peace and Security (2014-2018) states that the Government of Iraq should create an “[a]mendment of the Act of Federal Ministry of Labour on shelters, taking the example of Law 2/2011 in [Kurdistan].”¹⁸⁹ The plan calls for establishing “shelters and safe spaces for psychosocial support and free legal services for women victims of violence in accordance with international standards,”¹⁹⁰ with the “expected result” that “women receive better services by NGOs and institutions they meet.”¹⁹¹

The Government of Iraq in its State Party Report provided a legislative history of efforts to pass the domestic violence bill since 2015.¹⁹² Officials note that its Council of Representatives (2018–2022) is currently examining the bill.¹⁹³ including the provision on erection of shelters.¹⁹⁴ The Government states that the “bill on domestic violence includes provision for shelters for the protection of female survivors of domestic violence, which will be made available once the law has been approved.”¹⁹⁵ It claims that the “Ministry of Labour and Social Affairs is currently studying the possibility of opening shelters for women who have suffered violence, before the enactment of the law.”¹⁹⁶ There is no information on opening of such shelters yet.

Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, paras. 43-44, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018).

¹⁸⁷ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 21(c), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

¹⁸⁸ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 21(c), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

¹⁸⁹ *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, at 53, https://www.peacewomen.org/sites/default/files/iraq_nap_arabic.pdf.

¹⁹⁰ *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, at 54, https://www.peacewomen.org/sites/default/files/iraq_nap_arabic.pdf.

¹⁹¹ *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, at 54, https://www.peacewomen.org/sites/default/files/iraq_nap_arabic.pdf.

¹⁹² Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 70-78, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁹³ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 78, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁹⁴ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 79, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁹⁵ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 91, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁹⁶ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 92, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

Under the Social Welfare Act as amended by Act No. 28 of 2013, “care homes” are mandated to provide care for victims of domestic violence.¹⁹⁷ The Combating Trafficking in Persons Act No. 28 of 2012 provides for establishment of “homes” for trafficking victims and the Government claims that “steps to open such a structure have already been take.”¹⁹⁸ Regulation No. 7 of 2017 provides for establishment of “care centres” for victims of human trafficking.¹⁹⁹ However, it is unclear from the report whether these homes or centers have been established or not. The Government says it is refurbishing a shelter for trafficking victims in the Salikh neighbourhood, in cooperation with civil society organizations, with a view to its reopening,²⁰⁰ but does not state when it will open. While the Government of Iraq has provided shelter to seven victims in Baghdad from April 2018-March 2019,²⁰¹ trafficking victims in Iraq still lack access to basic protection services.²⁰²

In 2018, recognizing the lack of shelters in Iraq, the United Nations Population Fund (UNFPA) supported the Government of Iraq to set up a shelter in Baghdad that can accommodate up to 80 women survivors of gender-based violence.²⁰³ However, one Government-sponsored and UNFPA supported shelter is insufficient to provide for *all* of the women and girls who need protection services. Further, this shelter is guided by problematic policies of requiring legal referrals to access protection services.²⁰⁴ As part of the referral process, each case is to be registered in the Family

¹⁹⁷ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 80, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019) “Article 29 (1) of the Act states: “Care homes are mandated to provide care for children, minors, juveniles and adults who encounter family problems, who have lost one or both parents, or who are victims of domestic violence. The homes offer a healthy environment aimed at compensating for the loss of family care and affection and at overcoming any feelings of solitude.” para. 80.

¹⁹⁸ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 91, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹⁹⁹ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 96, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

²⁰⁰ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 160, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

²⁰¹ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 246 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

²⁰² U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

²⁰³ United Nations Population Fund, *Giving Women a Second Chance: Inauguration of the First Shelter for GBV Survivors in Baghdad* (Mar. 9, 2018), <https://iraq.unfpa.org/en/news/giving-women-second-chance-inauguration-first-shelter-gbv-survivors-baghdad>.

²⁰⁴ Government of Iraq Ministry of Labour and Social Affairs & UNFPA, *Guidelines for Management of Temporary Shelters for Gender-Based Violence (GBV) Survivors in Iraq* (February 2018) (on file with MADRE).

Protection Unit of the Ministry of Interior in Iraq,²⁰⁵ and a family court chaired by one female judge will then “legalize case referrals.”²⁰⁶

This process of legal court referrals has proved to be detrimental for survivors of human trafficking who, out of fear of retaliation, do not testify before courts and are lacking protection services.²⁰⁷ Enforcing the same policy for gender-based violence survivors is likely to have a similar detrimental impact on their access to shelters.

ii. Suggested Questions for the Government of Iraq

1. What measures is the Government of Iraq taking to enact the draft domestic violence bill with a provision permitting privately run shelters for all vulnerable groups, including women, the elderly, disabled persons, and families fleeing violence?
2. What is the status of the study that the Ministry of Labour and Social Affairs was undertaking to assess the possibility of opening shelters for women who have suffered gender-based violence, before the enactment of the domestic violence bill?
3. What measures is the Government of Iraq taking to ensure that privately run NGO shelters are not unduly harassed and to empower NGOs to continue providing shelters and related protection services to those fleeing violence?

V. DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (ART. 26)

The Government of Iraq does not collect comprehensive or reliable data on persons with disabilities in Iraq.²⁰⁸ The World Health Organization has estimated that there are about two million people with disabilities in Iraq,²⁰⁹ while Government estimates from 2012 put the number at 8.4 percent of the population.²¹⁰ Ongoing conflict and violence has disproportionately affected

²⁰⁵ Government of Iraq Ministry of Labour and Social Affairs & UNFPA, Guidelines for Management of Temporary Shelters for Gender-Based Violence (GBV) Survivors in Iraq, at 8 (February 2018) (on file with MADRE).

“...[S]urvivors, when consenting to the referral to the GBV shelter, do not need to go to a police station in order to get access to the shelter. The case will still be registered in the Family Protection Unit of the Ministry of Interior in Iraq, and the Family Protection Unit will take care of completing the official regulations jointly with the Ministry of Labour and Social Affairs and shelter staff, while the survivor will be accepted to stay at the shelter to ensure immediate safety. All this process will be guided by the wishes and decisions of the survivor.” at 8.

²⁰⁶ Government of Iraq Ministry of Labour and Social Affairs & UNFPA, Guidelines for Management of Temporary Shelters for Gender-Based Violence (GBV) Survivors in Iraq, at 9 (February 2018) (on file with MADRE). “One Family Court shall be reactivated to be the legal channel to support the Family Protection Unit of the Ministry of Interior in order to legalize case referrals, and one female judge shall be appointed to chair this court.”

²⁰⁷ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

²⁰⁸ International Organization on Migration, *Disability Inclusion Strategy 2019-2021*, at 10 (Dec. 3, 2019), https://reliefweb.int/sites/reliefweb.int/files/resources/iom_pd_disabilityinclusionreport_inhouse%20%282%29.pdf.

²⁰⁹ WHO, Regional Office for the Eastern Mediterranean Iraq, Rehabilitation & Disabilities, <http://www.emro.who.int/irq/programmes/rehabilitation-disabilities.html>.

²¹⁰ International Organization on Migration, *Disability Inclusion Strategy 2019-2021*, at 10 (Dec. 3, 2019), https://reliefweb.int/sites/reliefweb.int/files/resources/iom_pd_disabilityinclusionreport_inhouse%20%282%29.pdf.

people with disabilities in Iraq,²¹¹ and the failure to adequately implement disability laws or dedicate sufficient resources to protect the rights of persons with disabilities increases their vulnerability.²¹² Moreover, the definition of disabled persons under Law 38 takes a care-based approach rather than a rights-based approach, which is not in line with the Convention on the Rights of Persons with Disabilities,²¹³ ratified by Iraq in 2013.²¹⁴

Discrimination against persons with disabilities in Iraq remains widespread,²¹⁵ and women with disabilities face compounding discrimination on the basis of gender and disability.²¹⁶ Iraqi NGOs assert that women with disabilities in Iraq experience greater discrimination than their male counterparts and they are less likely to obtain work and education opportunities than men with disabilities.²¹⁷ The observance of traditional gender roles in Iraq means that women with disabilities often lack freedom of movement,²¹⁸ and that in some cases their families prevent them from leaving the house out of shame, and prevent them from receiving treatment.²¹⁹ Women and girls with disabilities in Iraq are also at constant risk of physical abuse and exploitation.²²⁰

²¹¹ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, at 3 (Dec. 2016), https://reliefweb.int/sites/reliefweb.int/files/resources/UNAMI_OHCHR_Report_on_the_Rights_of_PWD_FINAL_2Jan2017.pdf.

²¹² Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Iraq*, para. 9(a)-(b), UN Doc. CRPD/C/IRQ/CO/1 (Oct. 23, 2019).

²¹³ Iraqi Alliance of Disability, *The Parallel Report for the Government's Report on the Convention on the Rights of Persons with Disability (CRPD)*, at 8 (Jan. 2018), https://www.ecoi.net/en/file/local/1449271/1930_1541602017_int-crpd-ico-irq-31954-e.doc; UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, at 16 (Dec. 2016), https://reliefweb.int/sites/reliefweb.int/files/resources/UNAMI_OHCHR_Report_on_the_Rights_of_PWD_FINAL_2Jan2017.pdf.

²¹⁴ UN Treaty Collection, *Status of Ratifications of the Convention on the Rights of Persons with Disabilities*.

²¹⁵ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Iraq*, para. 11(a), UN Doc. CRPD/C/IRQ/CO/1 (Oct. 23, 2019).

²¹⁶ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, at 8-9 (Dec. 2016), https://reliefweb.int/sites/reliefweb.int/files/resources/UNAMI_OHCHR_Report_on_the_Rights_of_PWD_FINAL_2Jan2017.pdf; Iraqi Alliance of Disability, *The Parallel Report for the Government's Report on the Convention on the Rights of Persons with Disability (CRPD)*, at 8 (Jan. 2018), https://www.ecoi.net/en/file/local/1449271/1930_1541602017_int-crpd-ico-irq-31954-e.doc.

²¹⁷ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, at 9 (Dec. 2016), https://reliefweb.int/sites/reliefweb.int/files/resources/UNAMI_OHCHR_Report_on_the_Rights_of_PWD_FINAL_2Jan2017.pdf.

²¹⁸ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, at 9 (Dec. 2016), https://reliefweb.int/sites/reliefweb.int/files/resources/UNAMI_OHCHR_Report_on_the_Rights_of_PWD_FINAL_2Jan2017.pdf.

²¹⁹ Iraqi Alliance of Disability, *The Parallel Report for the Government's Report on the Convention on the Rights of Persons with Disability (CRPD)*, at 9 (Jan. 2018), https://www.ecoi.net/en/file/local/1449271/1930_1541602017_int-crpd-ico-irq-31954-e.doc. “Therefore, she is not allowed to leave the house or to be seen by others or even receive treatment.” at 9.

²²⁰ Iraqi Alliance of Disability, *The Situation of Women with Disabilities in Iraq and the Elimination of Violence According to (CEDAW) Convention*, at 4 (2019), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/IRQ/INT_CEDAW_CSS_IRQ_37340_E.docx “Many women and girls with disabilities complain that their lives are in constant danger and their fate is unknown, whether at home or outside; they are affected by to neglect, violence and abuse, or treatment involving exploitation.” at 4.

i. Response by the Government of Iraq

The Government of Iraq does not address discrimination against persons with disabilities, or discrimination against women with disabilities in its report.²²¹ In its 2017 report to the Committee on the Rights of Persons with Disabilities, the Government notes that discrimination against persons with disabilities is prohibited under Law 38 of 2013, and that it has established other legislative safeguards to prevent discrimination in employment, education, and access to justice.²²² Despite these measures, persons with disabilities, particularly women, continue to endure discrimination in accessing employment, education, and social protections.²²³

ii. Suggested Questions for the Government of Iraq

1. What steps will the Government take to “undertake a comprehensive legislative and policy review with a view to adopting and enforcing laws and policies that prohibit discrimination on the basis of disability,” and “step up efforts and take effective measures to combat multiple and intersectional forms of discrimination against women and girls with disabilities”?²²⁴

VI. DISCRIMINATION AGAINST AFRO-DESCENDANT IRAQIS (ART. 26)

Afro-descendant Iraqis, also referred to as Afro-Iraqis, make up about 1.5 to 2 million of Iraq’s population.²²⁵ The 2005 Iraqi Constitution stipulates that all Iraqis are equal,²²⁶ and prohibits racism and ethnic or religious hatred,²²⁷ yet Afro-Iraqis continue to experience racism and discrimination. Casual references to Afro-Iraqis as ‘*abd*’ (meaning ‘slave’)²²⁸ are reflective of a

²²¹ See generally, Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

²²² Government of Iraq, *Initial Report Submitted by Iraq under Article 35 of the Convention, Due in 2010*, paras. 34-41, UN Doc. CRPD/C/IRQ/1 (Oct. 23, 2017).

²²³ Iraqi Alliance of Disability, *The Situation of Women with Disabilities in Iraq and the Elimination of Violence According to (CEDAW) Convention*, at 3, 9, 11 (2019), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/IRQ/INT_CEDAW_CSS_IRQ_37340_E.docx; Minority Rights Group International, *Alternative Report to the Committee on the Rights of Persons with Disabilities (CRPD)*, paras. 18, 19, 25 (Sept. 2019).

²²⁴ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Iraq*, para. 8(c), 14(b) UN Doc. CRPD/C/IRQ/CO/1 (Oct. 23, 2019).

²²⁵ Minority Rights Group International, *Iraq: Black Iraqis*, (Nov. 2017), <https://minorityrights.org/minorities/black-iraqis/>; UN General Assembly, *Report of the Special Rapporteur on Minority Issues on Her Mission to Iraq*, para. 48, UN Doc. A/HRC/34/53/Add.1 (Jan. 9, 2017).

²²⁶ Constitution of the Republic of Iraq (Iraq), art. 14, (Third), October 15, 2005. “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect belief or opinion, or economic or social status.”

²²⁷ Constitution of the Republic of Iraq (Iraq), art. 7, (First), October 15, 2005.

“Any entity or program that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (takfir) or ethnic cleanings, especially the Saddamist Ba’ath in Iraq and its symbols, under any name whatsoever, shall be prohibited. Such entities may not be part of political pluralism in Iraq. This shall be regulated by law.” art. 7.

²²⁸ UN General Assembly, *Report of the Special Rapporteur on Minority Issues on Her Mission to Iraq*, para. 48, UN Doc. A/HRC/34/53/Add.1 (Jan. 9, 2017); Minority Rights Group, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq*, para. 15 (2018).

social status that derives from a systematic pattern of social discrimination. The Iraqi government has yet to implement legislation to prevent racial discrimination or protect minorities from marginalization.²²⁹ A striking lack of statistical data on Afro-Iraqis, including women, also reflects the Government's neglect of the Afro-Iraqi community.²³⁰

Systemic discrimination has resulted in high poverty rates among Afro-Iraqis, many of whom live in marginalized areas where they risk eviction, and lack access to clean water, proper sewage facilities, and adequate electricity.²³¹ Inadequate access to employment, housing, health services, and education are among challenges Iraqi women of African descent face.²³² The discrimination Afro-Iraqi children face in school, when they are able to enroll, causes some to drop out.²³³ Afro-Iraqis also do not have their own quota in Iraq's Parliament, unlike other ethnic and religious groups,²³⁴ and there has never been an Iraqi of African descent elected to the Council of Representatives.²³⁵ Human rights defenders call for fixed representation of Afro-Iraqis in government, as for other minorities, and increased security measures.²³⁶

i. Response by the Government of Iraq

The Government of Iraq does not address discrimination against Afro-Iraqis in its State Party Report to the Committee, and instead makes a blanket statement that all Iraqi's civil rights are

²²⁹ The draft law to "Protect Diversity and Combat Discrimination" was submitted for its first reading in October 2016, but was put on hold during the government transition. Minority Rights Group, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq*, para. 16 (2018).

²³⁰ The Special Rapporteur on Minority Issues reported that she was disturbed by the lack of information about the circumstances of Afro-Iraqis. UN Human Rights Council, *Report of the Special Rapporteur on Minority Issues on Her Mission to Iraq*, para. 48, UN Doc. A/HRC/34/53/Add.1 (Jan. 9, 2017). The Committee on the Elimination of Racial Discrimination also expressed concern that the Iraqi government has not collected statistics on the ethno-religious composition of the population. UN Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq*, para. 5, UN Doc. CERD/C/IRQ/CO/22-25 (Jan. 11, 2019).

²³¹ Minority Rights Group, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq*, para. 28 (2018).

²³² UN Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq*, para. 27, UN Doc. CERD/C/IRQ/CO/22-25 (Jan. 11, 2019). The Iraqi High Commissioner for Human Rights has acknowledged that women from minority groups, especially Iraqi women of African descent, lack access to education and employment. Iraqi High Commission for Human Rights (IHCHR), *Report on Iraq's Compliance with the International Convention on the Elimination of All Forms of Racial Discrimination submitted to the UN Committee on the Elimination of Racial Discrimination (CERD)*, at 18 (2018); See also, UN Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 31, UN Doc. E/C.12/IRQ/CO/4 (Oct. 27, 2015).

²³³ Australian Government Department of Foreign Affairs and Trade, *DFAT Country Information Report: Iraq*, para. 3.9 (Oct. 9, 2018) <https://www.dfat.gov.au/sites/default/files/country-information-report-iraq.pdf>. "Community representatives report being called 'slaves' and children experience similar abuse in schools, leading to a high drop-out rate." para. 3.9.

²³⁴ Minority Rights Group, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq*, para. 12 (2018) (noting that only 8 seats in parliament are reserved for minorities allocated only to Christians, Sabeen-Mandaeans, Shabak and Yezidis).

²³⁵ Minority Rights Group, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq*, para. 13 (2018).

²³⁶ Notes from Minorities Conference, *The Role of Women in building Reconciliation between Components of Iraq*, Baghdad, Iraq (Dec. 2018) (on file with MADRE).

guaranteed, regardless of race, under article 14 of the Constitution.²³⁷ There is a clear need for an anti-discrimination law, disaggregated statistics, and mandatory education on ethnic minorities, including Afro-Iraqis. UNAMI has urged the Government of Iraq to adopt the draft Law on the Protection of the Rights of Religious and Ethnic Minority Groups, and the draft Law on the Protection of Diversity and Prohibition of Discrimination.²³⁸ These two laws aim to eliminate discrimination based on race, color, sex, language, religion, political or other opinion, nation or social origin. UNAMI also recommends the Ministry of Education work to eliminate discrimination in education.²³⁹

ii. Suggested Questions for the Government of Iraq

1. What steps is the Government taking to “adopt a comprehensive anti-discrimination law to prevent and combat discrimination in all areas of life and ... include in such legislation, as well as in the Labour Code, a definition of direct and indirect discrimination on all prohibited grounds?”²⁴⁰
2. What is the Government doing to “raise public awareness of the importance of ethnic, ethno-religious and cultural diversity and the fight against racial discrimination, and to integrate these into the school curriculum”²⁴¹ to ensure that negative stereotypes in school curricula are eradicated and replaced with education on minority groups, including Afro-Iraqi women?

²³⁷ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 276, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

²³⁸ UNAMI, *Report on Human Rights in Iraq: January to June 2017*, at 6 (Dec. 14, 2017), <https://www.refworld.org/docid/5a746d804.html>.

²³⁹ UNAMI, *Report on Human Rights in Iraq: January to June 2017*, at 6 (Dec. 14, 2017), <https://www.refworld.org/docid/5a746d804.html>.

²⁴⁰ UN Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq*, para. 10, UN Doc. CERD/C/IRQ/CO/22-25 (Jan. 11, 2019).

²⁴¹ UN Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq*, para. 40, UN Doc. CERD/C/IRQ/CO/22-25 (Jan. 11, 2019).