Letter to Iraqi Prime Minister Haider al-Abadi on Concerns Regarding Upcoming Mosul Operation

H.E. Haider al-Abadi
Prime Minister
Baghdad, Iraq
Republic of Iraq

Re: Concerns Regarding Upcoming Mosul Operation

Your Excellency,

As you are aware, Human Rights Watch has raised concerns in previous reports regarding the failure of Iraqi government forces to abide by international humanitarian and human rights law during operations to retake territory from the extremist group Islamic State, also known as ISIS. Our research has revealed widespread violations, including credible allegations of summary executions, beatings of men in custody, enforced disappearances, destruction of civilian objects, and mutilation of corpses by government forces. We sent you a letter on September 7 requesting information on the progress of investigations into violations committed in the Fallujah operation, and requesting information on the number of individuals detained for ISIS-affiliation during and following the operation.

We would also like to highlight our concerns related to the upcoming operation to retake Mosul and offer some recommendations, in light of the violations we have documented in previous operations.

We look forward to receiving a response to our previous letter and welcome any comments on the information addressed below.

Sincerely,

Sarah Leah Whitson
Executive Director
Protecting Civilians from Abusive Armed Forces

In the most recent operation against ISIS, to retake Fallujah in late May, Human Rights Watch’s research indicates that in late May and early June, members of the Badr Brigades and Hezbollah Brigades, among other members of the Popular Mobilization Forces (PMF), and in at least one instance Iraqi Federal Police officers, beat men after taking them into custody, committed summary executions and forcible disappearances, and mutilated corpses. The violations in Fallujah followed previous Human Rights Watch reporting of widespread abuse by PMF, including in some instances the intentional destruction and looting of civilian property, in al-ʿAlam, Amerli, al-BuʿAjil, al-Dur, and parts of Tikrit after operations to retake territory from ISIS in March and April 2015. Human Rights Watch would like to reiterate the recommendation that you prevent any armed forces under your command that are implicated in laws of war violations, including the Badr Brigades, the Hezbollah Brigades (Kataʾib Hezbollah), and other groups within the PMF, from participating in planned operations to retake Mosul. We also call on your government not to coordinate or cooperate with militias that the authorities have reason to believe would carry out retributive attacks or other abuses in operations against ISIS.

Human Rights Watch documented the recruitment of child soldiers by two government-backed tribal militias (Hashad al-Ashaʾri) participating in the fight against ISIS. The Iraqi government should commit to ceasing coordination with armed groups who recruit and have failed to demobilize child soldiers.

Iraqi forces remaining in Mosul and surrounding towns and villages after the operation should take all feasible measures to protect civilian objects and civilians, including those fleeing the area or in camps for internally displaced persons.

Because previous operations in which PMF participated indicate the risk of revenge attacks in the planned Mosul operation, Iraqi Security Forces or the Peshmerga should restrict the movement of abusive armed forces and militias in areas civilians will be fleeing to and provide heightened security to protect individuals in the camps. Authorities should strictly enforce prohibitions of all weapons inside the camp.

Human Rights Watch calls on the Iraqi authorities to take steps to hold fighters under their command or control, including those in command control, in Iraqi security forces and militias accountable for any abuses committed during military operations and to make public the results of investigations into these abuses.

Screenings and Detention
Human Rights Watch is also concerned that the Iraqi government has failed following previous anti-ISIS operations to adhere to its human rights and humanitarian law obligations when conducting security screenings and detentions of individuals living in territory retaken from ISIS. The abuses took place as a result of PMF and Iraqi police separating men from their families at checkpoints as they fled the city, as well as PMF rounding up men in certain suburban neighborhoods of Fallujah.

As a general matter, authorities’ deprivation of liberty of individuals should be made pursuant to domestic Iraqi law. International human rights law and the laws of war govern what can and cannot be done concerning detention. In the context of a massive public security crisis, authorities may have reasons to detain persons but these should be clearly set out in Iraqi law and all basic procedural rights of detainees, especially that of prompt judicial review, of detention, respected.

According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the Iraqi authorities are planning to set up several screening centers surrounding the city of Mosul to process people fleeing the area.

Human Rights Watch urges the government to implement the following safeguards to ensure these screenings are undertaken in a way that is nondiscriminatory and ensures civilian protection in accordance with the laws of war and human rights law:

- In light of abuses that have been perpetrated by the PMF and in order to ensure consistency, only Iraqi Security Forces or KRG forces should operate screening centers and checkpoints.
- Authorities working at the screening centers should have basic technical training in the tasks they are carrying out, and the government should provide them with adequate resources needed to screen individuals as quickly and safely as possible. They should inform the humanitarian community in a transparent manner about the capacity and procedures being implemented at the screening centers.
- Authorities should make medical care, including first aid, promptly available to everyone at screening sites.
- Authorities running the screening centers surrounding Mosul should locate them as far from hostilities as possible.
- Authorities should promptly identify vulnerable individuals and prioritize them in the screening process, including those needing immediate medical assistance, and provide them with any assistance needed.
- If authorities screen children and suspect that they were child soldiers, treatment should focus on rehabilitation and social reintegration, not detention or prosecution. As a party to the Optional Protocol on the Convention on the Rights of the Child, Iraq is obliged to demobilize children who have been recruited or used in hostilities by ISIS and to provide assistance for their physical and psychological recovery and social reintegration. Under international norms, the release, protection and reintegration of children unlawfully recruited or used must be sought at all times, without condition, and children should be rapidly separated from adult fighters and handed over to “an appropriate, mandated, independent civilian process.”
- Persons should not be presumed to be ISIS-affiliated or otherwise suspected of criminal activity based simply on gender, age, religious sect, or tribal name.

https://www.hrw.org/print/294914
The authorities should allow independent protection monitors at all screening centers.
While screening individuals, authorities should ensure that they are treated respectfully and that conditions in the centers meet international standards.

Screening should only last a matter of hours, and a law should be set out governing it. Any person held for longer should be treated as a detainee.

If the authorities decide to detain an individual following the screening process, they must do so in a way that is compatible with Iraqi domestic law and Iraq’s international human rights and humanitarian law obligations.

- In light of abuses that have been perpetrated by the PMF and in order to ensure consistency, only Iraqi Security Forces or KRG forces should operate detention centers.
- Persons should only be detained according to Iraqi law.
- Iraqi authorities should promptly inform persons detained on suspicion of committing a crime of the charges against them and should provide detainees with an opportunity to challenge their detention promptly before an independent judicial body, as required under Iraqi law.
- Detainees have the right to see the evidence against them, the right to a lawyer and access to their families, and the right to defend themselves. Authorities should facilitate communications between detainees and their families and legal counsel.
- All detainees should be brought promptly before a judge to review the legality of their detention.
- The authorities should make public the number of fighters and civilians killed or detained as a result of the conflict with ISIS, and specifically in the context of the Mosul operation, and the charges brought against those in detention.
- The authorities should allow independent monitors access to all detainees and detention centers.
- Authorities should make medical care, including first aid, promptly available to everyone in detention.
- Authorities should ensure that if parents are detained, children stay with female members of their family or with trusted caretakers not in detention. For those detained, international standards entitle children to basic standards of health, sanitation including clean and sufficient bedding, and nutrition. They mandate that authorities separate children from adults in detention and take extra measures to protect children from sexual abuse, exploitation, and coercion.
- Human Rights Watch notes with concern that under Iraqi law the age of criminal responsibility is nine, whereas the Committee on the Rights of the child has concluded that a minimum age below 12 years is a violation of international law. We recommend that during this operation, and pending legislative reform efforts, security and law enforcement officers should not prosecute children but rather the adults who recruited them, and that in no case will a child under 12 years old be held criminally responsible.

Iraqi forces should not detain civilians, for the purposes of intelligence gathering or criminal inquiry, or administrative detention. Iraqi authorities may carry out intelligence-gathering questioning, and law enforcement personnel are entitled to request questioning civilian populations as part of law enforcement activities, but
civilians are not obligated to provide information to the authorities beyond their identity. Authorities should not offer protection and humanitarian assistance as payment for information or intelligence.

Region / Country

- Middle East/North Africa
- Iraq


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