

Report on Human Rights in Iraq

January to June 2016



United Nations Assistance Mission for
Iraq (UNAMI)

بعثة الأمم المتحدة لمساعدة العراق
(يونامي)

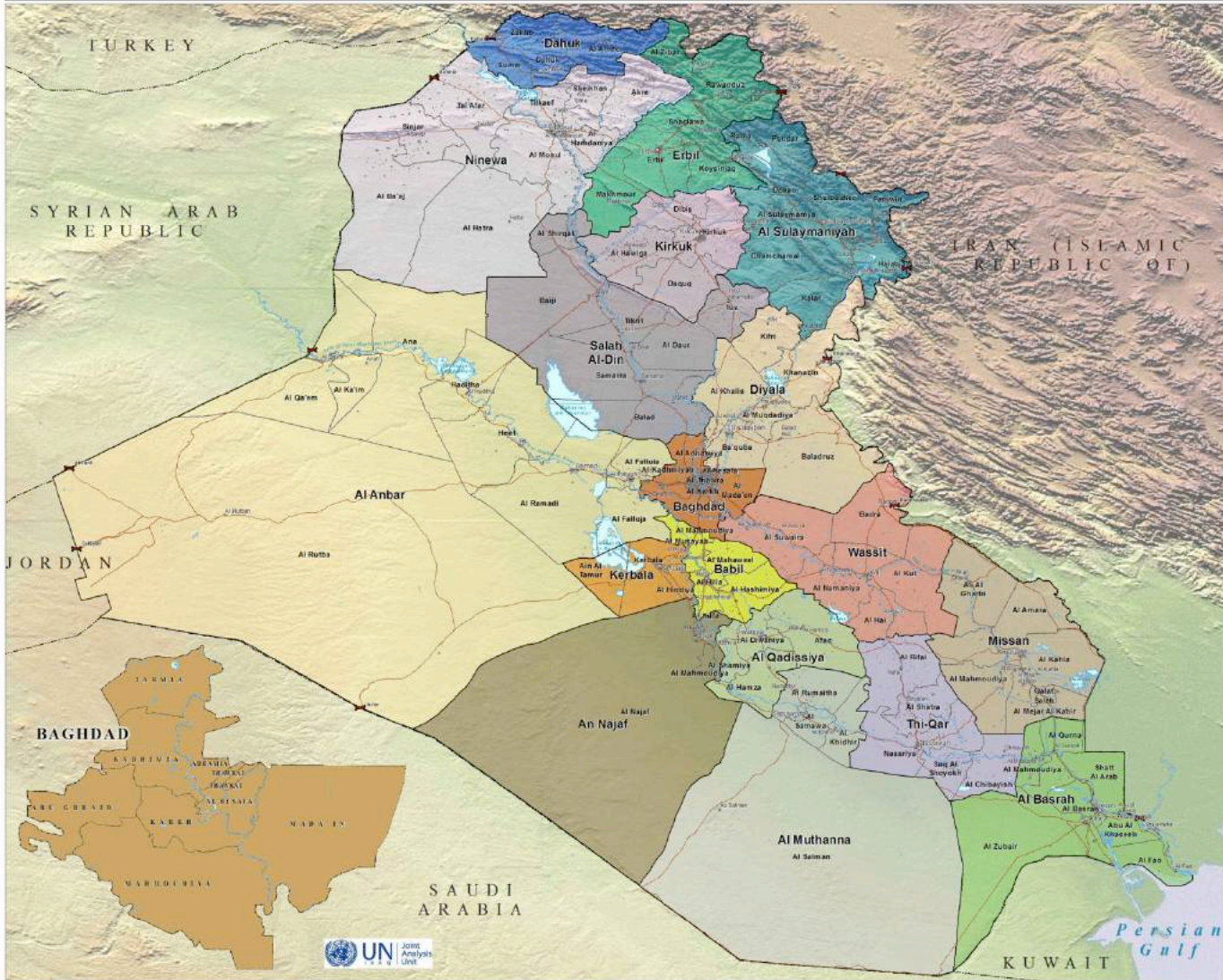
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Human Rights

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

IRAQ - District Map
July 2014



Legend

Land Use

- Buildup Area

Transportation

- Primary routes

Demographics

- Capital
- Gov Capital
- Major City

Boundaries

- Border Crossings
- International Boundary
- Governorate Boundary
- District Boundary
- Coastline

Hydrology

- Lakes and reservoirs
- Major rivers
- Land subject to inundation

Disputed Internal Boundaries: Elevation map

Coordination Hubs and A&R: Oil and Gas resources

Governorate and district boundaries in Iraq vary amongst sources. This map shows names, spellings and administrative boundaries corresponding to the data developed by IOM and OCHA, August 2008.

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 0 30,000 75,000 150,000 Meters
 0 10 20 30 40 50 100 Miles

Scale for inset maps: 0.0 4.0 8.0 16.0 Kilometers

Map data sources:
 Boundaries: IEC 2003, UNEF 4 2005, OCHA 2008, UNAMI 2008, IOM 2008, USICGR 2008, INMAP 2008, Admin Boundaries: IOM/OCHA 2008, Imagery: NGA

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Recommendations

Recommendations for the Government of Iraq

General

- Review the reservations made by Iraq upon accession to international human rights treaties, with a view to their possible withdrawal.
- Accede to the 1951 Convention relating to the Status of Refugees (and its 1967 Protocol); the 1954 Convention relating to the Status of Stateless Persons; the 1961 Convention on the Reduction of Statelessness; and the Additional Protocol II to the Geneva Conventions of 1949; and ratify the Rome Statute of the International Criminal Court.
- Guarantee the independence and effective functioning of the Iraq High Commission for Human Rights in accordance with the principles established by United Nations General Assembly resolution 48/134 (1993) (“The Paris Principles”).
- Accept individual complaints procedures under relevant international conventions to which Iraq is a Party.

Protection of Civilians

- Ensure that all armed groups operating in support of the Iraqi Security Forces (ISF) are under the full command and effective control of the civilian authorities of the Government of Iraq, that the structure and lines of command and discipline of such forces are based on the law, including a system to hold the members of such forces accountable according to law for any violations of international humanitarian law and human rights violations or abuses or Iraqi criminal law that they may commit.
- Take urgent action to prohibit the recruitment or use in hostilities of children by any armed group operating in support of the ISF, and ensure that any children found to have been recruited is immediately protected and referred to appropriate services to assist his/her rehabilitation and reintegration to her/his family and community.
- Implement measures to prevent inter alia destruction of property, arbitrary or unlawful arrest/detention, forced evictions and killings of civilians during military operations against ISIL and/or in areas retaken from ISIL, or which have been reported against IDPs in other areas of Iraq (and which constitute violations of IHL and the Constitution and laws of Iraq) and ensure that all such allegations are promptly, thoroughly, independently and impartially investigated, and that those responsible for such acts are held accountable.
- Take measures to ensure that the freedom of movement of all Iraq’s citizens is respected and protected, that the rights of IDPs are fully protected and respected, and that no IDP will be forced or coerced to leave areas where she/he has sought safety against her/his will, and that the return of IDPs to their places of origin will be voluntary and will take place in dignity and safety and in full compliance with their rights and international legal and humanitarian standards.
- Take steps to prevent collective punishments by local authorities, particularly of the family members of individuals who supported, or were suspected of supporting ISIL and other armed or terrorist groups, including orders purporting to expel or banish such persons, or orders purporting to confiscate, sequester, or destroy their moveable or immoveable property in contravention of the Constitution of Iraq and Iraq’s international obligations.

- Ensure that where military operations to liberate areas from ISIL are ongoing, that to the maximum extent possible and in full compliance with applicable norms and standards of IHL and IHRL, the Constitution and laws of Iraq, the ISF and other armed groups operating in its support, protect civilians:
 - Facilitate the safe passage of all civilians, from areas of active hostility, ensure unimpeded access to safe areas, and ensure their full access to life saving and other humanitarian assistance and that access to them by humanitarian organisations is facilitated.
 - Every feasible effort is made to ensure that children (formerly) associated with armed group captured during military operations are appropriately protected and that they are referred at the earliest possible opportunity to programmes that will guarantee their care, protection, rehabilitation and reintegration to their families and/or communities.
 - Ensure that arrest, detention or internment of any individual on security grounds in relation to the ongoing conflict are implemented only by government authorities properly authorised to do so under Iraqi law and that the grounds, duration and conditions of such arrest, detention or internment are properly and clearly provided by law.
 - Ensure that any security vetting of individuals detained during military operations is carried out only by government authorities permitted to do so under Iraqi law, and that all such vetting is carried out in a transparent manner, and in locations that are properly and publicly identified for such purpose, and ensure that they are treated with humanity and respect for their inherent dignity and that all humanitarian needs of persons interned on security grounds are met for the duration of their detention.
 - Ensure that where an arrested/detained or interned person requests every effort is made by the Government to inform family members or next of kin of the location of the individual and the legal grounds on which the individual has been arrested, detained or interned.
 - Ensure that security vetting is carried out as effectively and as efficiently as possible, that individuals are processed as quickly as possible and that they are either released to safe locations; or if internment is to be continued beyond the minimum period stipulated by law, that the case is referred to a judge for determination according to law; or where evidence warrants charge and trial of such individuals, that she/he be handed over to the Ministry of Interior/Ministry of Justice and that all due process and fair trial standards as guaranteed by the Constitution of Iraq and international law are strictly respected in relation to such persons.
- Ensure that survivors of human rights violations or abuses, particularly of sexual and gender-based violence, receive adequate support, including psycho-social support and medical care.
- Take steps to fully implement Security Council resolution 1325 on women, peace and security.
- Implement policies and programmes aimed at countering radicalization of persons subjected to extremist indoctrination by ISIL and other groups, particularly policies that will provide for the care and protection of children, in compliance with international standards, who have been subjected to extremist indoctrination, particularly policies and programmes that will support their rehabilitation and reintegration into their communities and families.
- Implement policies to protect women and girls, who have been married, including forcibly with members of ISIL or other unlawful, extremist and/or terrorist groups, as well as the children of such relationships (whether such marriages were forced/coerced or otherwise entered into) – including ensuring: their protection from all forms of violence; the issuance of legal

documentation in relation to their status and the status of their children; their access to all essential services (medical, financial, and other); their access to programmes aimed at their rehabilitation and reintegration into their communities and/or families; and policies and programmes aimed at protecting such women and children from all forms of discrimination.

- Implement policies that will ensure the care and protection of children who may have been born as a result of sexual violence perpetrated by ISIL or others.
- Ensure that, as soon as practicably possible after liberation of areas from ISIL control, responsibility for law and order is restored to civilian control, and that measures are taken to ensure the human rights and basic humanitarian needs of civilians residing in those areas or voluntarily returning are met.
- Investigate effectively, promptly, thoroughly, independently and impartially any allegations of human rights violations or abuses and violations of international humanitarian law and, where appropriate, prosecute those who are responsible for such acts. Ensure that the findings of such investigations are made public.
- Implement procedures for documentation at the required judicial standard of crimes committed in relation to the current conflict;
- Equally ensure that appropriate mechanisms are put in place to ensure the rights of all victims or their relatives to have access to effective remedies, including the right to equal and effective access to justice and adequate, effective, and prompt reparation for the harm suffered.
- Ensure procedures for the protection, excavation and investigation of mass graves are properly legislated, along with appropriate measures to excavate such sites and exhume and identify the mortal remains, and to preserve evidence of crimes committed; including any that may lead to the identification of perpetrators.
- Conduct independent, public coronial inquiries (under the authority of a judicial officer) into each mass grave, to identify the victims, collect evidence of wrongdoing, and thoroughly investigate and determine the circumstances that led to the deaths of the individuals concerned; ensure that family members of victims and missing persons are provided with all available information and adequate and timely financial, material and other assistance.
- Introduce amendments to the Iraqi Criminal Law to grant domestic courts' jurisdiction over international crimes committed in Iraq.
- Accede to the Rome Statute of the International Criminal Court. As an immediate step, accept the exercise of the Court's jurisdiction with respect to the specific situation faced by the country, pursuant to Article 12(3) of the Rome Statute.
- Ensure that appropriate resources and training for police and security forces are provided to assist investigation of crimes, including acts of terrorism, so that perpetrators are held to account according to the law and international human rights norms and standards.
- Develop policies to address the conditions conducive to armed conflict, terrorism and violent extremism that promote the respect and protection for human rights and the rule of law, including re-engaging affected communities in decisions relating to their security, ensuring effective protection through impartial security forces, undertaking comprehensive criminal justice law reform to ensure compliance with due process and fair trial standards, implementing programmes aimed at countering radicalization and violent extremism and strategies to eradicate poverty by ensuring access to basic services, education and economic opportunities, and ensuring integrated and comprehensive programmes for the medical, psychological, financial and other forms of support for the victims of armed conflict and terrorism and their dependents.

Rule of Law and Administration of Justice

- Undertake comprehensive criminal justice reforms, including of the Iraqi Criminal Code no. 111 of 1969, the Iraqi Criminal Procedures Code no. 23 of 1971, and the Anti-Terrorism Law no. 13 of 2005 to ensure their provisions comply with international human rights law and the Constitution of Iraq, including with regard to rights of due process and fair trial.
- Allocate sufficient resources to training police and investigators on due process and fair trial standards, and on appropriate techniques for investigating crimes, including the gathering of forensic and other evidence.
- Ensure compliance by all State officials and their representatives with Iraq's Constitutional and international legal obligations, including in relation to the full implementation of the Convention against Torture. Ensure that all allegations of torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment) are promptly, thoroughly, impartially and independently investigated, that perpetrators are charged and tried according to law, and that victims are appropriately and adequately compensated, including by providing appropriate medical, social and other assistance.
- Establish an independent oversight body, such as an ombudsman or police disciplinary tribunal, to investigate allegations of abuse of authority or breach of professional standards by police.
- Establish a judicial police service responsible for bringing detainees from police detention to hearings with the investigative magistrate. Also ensure defendants who have been before the investigative magistrate are not returned to police custody and are released on bail or transferred to Ministry of Justice facilities.
- Extend the Judicial Investigations Office, piloted in Basra, to all areas of the country.
- Ensure that Police Commanders are rotated in accordance with institutional directives.
- Ensure that judges' security and safety is guaranteed.

Death Penalty

- Declare a moratorium on the use of the death penalty in accordance with United Nations General Assembly resolutions 62/149 (2007), 63/168 (2008), 65/206 (2010) and 67/176 (2012); review the criminal code and the criminal procedure code with a view to abolishing the death penalty or limiting its potential application to only the most serious crimes; and consider acceding to the Second Optional Protocol to ICCPR aimed at abolishing the death penalty.
- Implement international standards that provide safeguards of the rights of those facing the death penalty, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, until the death penalty is abolished in Iraq.
- Establish a special judicial oversight body to monitor trials related to capital punishment in collaboration with the Iraqi High Commission for Human Rights to ensure respect for due process and fair trial standards.
- Issue directives to judges making clear that a conviction of an accused solely on the basis of confession or evidence obtained under duress, particularly where allegations of torture and/or ill-treatment inflicted during investigation, or based on the testimony of secret informants amounts to a human rights violation.
- Take all possible measures to ensure that a death sentence is only imposed after proceedings that meet the highest level of respect for fair trial and due process standards (ICCPR- ratified by Iraq).

Women's human rights

- Revise the draft Family Protection Law to ensure that includes measures to prevent sexual and gender based violence, offers protection to the survivors of SGBV, and ensures accountability of

the perpetrators of such violence, in compliance with international standards and ensure its earliest adoption.

- Ensure that the National Strategy on Combating Violence against Women is fully implemented, including:
 - Review all legislations to ensure it promotes the rights and protection of women, in particular that the Iraqi Criminal Code no. 111 of 1969 is amended to remove 'honour' as a mitigating factor in the commission of crimes of violence against women and family members.
 - Provide adequate resources for social and medical support, including establishment of shelters, for victims of domestic or other forms of violence.
 - Issue directives that require officials responsible for law enforcement and administration of justice to promptly, thoroughly, independently and impartially investigate all allegations of violence against women, and to ensure that the perpetrators of such acts are held accountable.
 - Conduct appropriate training courses on gender issues, particularly violence against women, for all State officials, including those responsible for law enforcement and the administration of justice so as to enable them to address cases in an appropriate and sensitive manner.
- Take additional measures to prevent forced and/ or early marriages and ensure that victims (and any children that may have been born as a result) are provided with appropriate legal, medical, financial and other support.
- Ensure police conduct prompt, thorough, independent and impartial investigations into suspected "honour crimes".

Children's rights

- Reform the juvenile justice system to ensure that the arrest, detention or imprisonment of a child is in conformity with international standards and the law and is used as a measure of last resort and for the shortest appropriate period of time. Ensure that every child deprived of liberty has prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.
- Ensure that children deprived of liberty are treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of children of different ages. Ensure in particular that juvenile detention facilities provide access to services and conditions appropriate for the physical and mental care and development of children, and that all staff members working with children are appropriately trained in the care of children.
- Ensure the implementation of programmes to guarantee access of all children, particularly mentally or physically disabled children, to basic services, including healthcare, housing and education in compliance with international law and standards. Establish a formal mechanism for child protection and information sharing with the United Nations Country Task Force on Monitoring and Reporting in compliance with Security Council resolution 1612 (2005).
- Repeal article 407 of the Iraqi Criminal Code no. 111 of 1969, which contains special measures for persons who kill children for reasons of honour.

Rights of ethnic, religious and other groups

- Ensure that the draft Law on the Protection of the Rights of Religious and Ethnic Minority Groups as proposed by Iraqi civil society organisations is enacted, ensuring that the law contains: an appropriate and inclusive definition of minorities, a mechanism via which minority

groups can claim protection for cultural, religious, linguistic and heritage rights, cross references other legislation, removing any uncertainty about its primacy, and mechanisms for implementation capable of making binding decisions.

- Adopt the proposed anti-discrimination law being proposed by Iraqi civil society organisations that aims to eliminate discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, disability, birth, or other status.
- Adopt and implement legislation to prohibit incitement to violence based on race, colour, sex, language, religion, political or other opinion, national or social origin, disability, birth, or other status.
- Ensure all violent incidents against minority groups are thoroughly investigated, perpetrators brought to justice in a timely and transparent manner, and communities consulted about decisions related to enhancing their security.
- Undertake revision and reform of the school curricula to introduce programmes aimed at promoting equality and respect for all persons, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, disability, birth or other status.
- Establish a committee or directorate in the Office of the Prime Minister to oversee policies and programmes aimed at ensuring the respect and protection of the rights of minority communities and to coordinate ministerial actions to implement these policies and programmes.

Rights of Persons with Disabilities

- Review and amend the Law no. 38 of 2013 on the Rights and Privileges of Disabled Persons with Disabilities to ensure it complies with the Convention on the Rights of Persons with Disabilities, and relevant international human rights norms and standards and that the law is fully implemented.

Right to freedom of expression and opinion

- Undertake a review of all existing laws and policies (including the 'bills on Freedom of Assembly, freedom of information and freedom of expression') to ensure that they provide and protect the right to freedom of expression and opinion of all persons, and repeal those provisions of the criminal laws concerning defamation, etc., as recommended by the United Nations and civil society organisations.
- Ensure that all prospective legislation respects and protects the rights of all individuals to receive and impart information freely and without hindrance, subject to certain restrictions, as provided by law and as necessary in accordance with its obligations under international human rights law. Ensure journalists and media workers are protected against harassment and violence in the performance of their profession, and that all allegations of such harassment or violence be promptly and thoroughly investigated, and those responsible held accountable according to law.

Right to freedom of assembly

- Ensure the right of individuals to demonstrate peacefully is fully respected by police and other State authorities in line with applicable international norms.
- Ensure training for police and other law enforcement officials on civilian crowd control in compliance with international standards.

- Undertake public education campaigns aimed at creating awareness of individuals' rights, special duties, and responsibilities, particularly in relation to the rights to freedoms of expression, opinion and assembly.

Recommendations for the Kurdistan Regional Government

Protection of civilians

- Ensure that all armed forces operating in support of the Kurdish Security Forces (*Peshmerga*) are under the full command and control of the civilian authorities of the Kurdistan Region of Iraq Government, that the structure and lines of command of such forces are properly legislated, including a system to hold the members of such forces accountable according to law for any violations international humanitarian law and human rights violations or abuses or Iraqi criminal law that they may commit.
- Implement measures to prevent extra judicial punishments, including destruction of property (movable or immovable), unlawful arrest/detention, expulsions and killings of civilians during military operations against ISIL and/or in areas retaken from ISIL and ensure that all such incidents are promptly, thoroughly, independently and impartially investigated, and that the perpetrators of such acts are held accountable according to law.
- Ensure prompt and immediate return to their home of origins of all those who have been forcibly displaced in areas currently under Peshmerga's controlled areas.

Rule of law and Administration of Justice

- Ensure that fair trial rights are fully respected in relation to all detainees, including persons who have unlawfully engaged in hostilities and who are being detained by the Kurdistan Regional Government. This includes that they are promptly informed of the charges, they have access to legal counsel of their choosing, and they are brought before a court to be tried within a reasonable time.
- Release immediately or prosecute and bring to trial all detainees held for prolonged periods of time without charge.
- Limit the routine practice of investigation units in the *Asayish* and Anti-Terrorism Directorate of applying isolation upon admission of detainees suspected of serious offences.
- Without any exceptions, transfer any juveniles being held in adult detention facilities to the Women and Juvenile Reformatories and ensure that they be accorded all fair trial rights and protections as required by international law applicable to juveniles subject to the criminal justice system.
- Raise the legal age of criminal responsibility at a minimum to 12 years and institute alternatives to detention and imprisonment of juveniles. Make detention and imprisonment of juveniles applicable only as an exception, if and when no other measures are deemed effective.

Detention Standards

- Develop strategies which consider a full range of criminal justice policy and practice options, for the short, medium and long-term reduction of overcrowding in detention facilities.

Death Penalty

- Reinstatement and make official the moratorium on the death penalty, including in relation to current convicts sentenced to death in Kurdistan Region of Iraq, as well as initiate a campaign to counter calls on social media for capital punishment for certain individuals.

Human rights of Women

- Amend the Law Combating Domestic Violence to extend its scope so that all forms of violence against women, including domestic violence, are covered; introduce the possibility of prosecution in domestic violence cases; and to make tangible progress towards its full implementation.
- Welcome the prosecution of those accused of the crime of female genital mutilation
- Initiate prompt, impartial, independent and thorough investigations into all violent deaths and reported suicides of women, including cases of self-immolation and burning, and ensure that perpetrators are held accountable.
- Strengthen the capacity of police, investigators, judges and prosecutors, including through training, to ensure cases of domestic violence are handled in an appropriate and gender-sensitive manner that prioritises victim-safety.
- Examine the causative factors as to why women might want to harm themselves and to develop policies to address the causes; and, strategies to prevent suicides, involving key stakeholders, to assess the situation and the requirement and availability of resources, increase awareness, and put in place preventive protection strategies, particularly for vulnerable at-risk individuals and groups.
- Approve the shelter by-law drafted by the Ministry of Labour and Social Affairs which clarifies the role of relevant government ministries in relation to shelters for women seeking refuge from domestic violence and violence against women.
- Develop programmes to assist women leaving shelters to leading a normal life, through for example employment initiatives and workforce training, and opportunities for continuing (adult) education.

Rights of Religious, Ethnic and other Communities

- Strengthen the school curriculum and public education on human rights principles and fundamental freedoms to foster universal values, equal opportunities, respect for diversity and non-discrimination.
- Undertake measures to resolve the land disputes alleged by the Assyrians and ensure that judicial decisions ordering the return of lands to Assyrians are enforced.

Rights of Persons with Disabilities

- Review and recommend the amendment of the Rights and Privileges of Disabled Persons with Disabilities and Those with Special Needs Law No.22 of 2011 to ensure it complies with the Convention on the Rights of Persons with Disabilities, and that it is fully implemented.

Rights to Freedom of Expression and Opinion

- Ensure the unrestricted work of media professionals; take measures to prevent violations and protect journalists from harassment and violence in the performance of their profession; and conduct prompt and transparent investigations into all violations against media outlets and media workers.

KRI Regional Human Rights Institution

- Support the independence of the Board of Human Rights and encourage its compliance with the Paris Principles.

Engagement with International Human Rights Mechanisms: Universal Periodic Review and United Nations Human Rights Treaty Bodies

- Develop and adopt a regional action plan to facilitate the effective implementation of recommendations from the Universal Periodic Review and Treaty Bodies.

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Executive Summary

This report is published by the Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI) in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR). It covers the period from 1 January 2016 to 30 June 2016.

The human rights environment in Iraq remained fragile during the reporting period, primarily owing to the ongoing armed conflict between the Government of Iraq and armed groups operating in support of the Government of Iraq and the so-called Islamic State of Iraq and the Levant ('ISIL' or 'Daesh'). Acts of terrorism and other violence continued to have a serious impact on civilians, as attacks by terrorist and armed groups are often carried out in a manner that deliberately and directly targeted civilians with the aim of killing and wounding as many as possible or constitute indiscriminate attacks. From 1 January to 30 June 2016, there were a minimum of 9,297 civilian casualties, including at least 2,735 persons killed and 6,562 wounded as a result of armed conflict, violence and acts of terrorism in Iraq.

ISIL directly attacked civilians, and frequently claimed responsibility for terrorist acts committed in public areas in Baghdad and other areas of Iraq that caused the loss of civilian lives, injuries to women, children and men, and destroyed public and private property. In areas it controls, ISIL continued to base itself deliberately in civilian homes and public infrastructure (including schools, hospitals and other public utilities) in order to shield itself from attack. The group also deliberately targeted civilians suspected of opposition to its rule or *takfiri* doctrines, including religious and community leaders, professionals (media, educational, legal and health professionals, including women) and those associated with the Government of Iraq for threats, intimidations, physical and sexual violence, abduction, and killing.

ISIL continued to target systematically members of ethnic and religious communities pursuant to its *takfiri* doctrines, including destroying places of religious and cultural significance. According to community sources, there could still be as many as 3500 women, children and some men, mostly Yezidi, but also from other ethnic and religious communities, in ISIL captivity, many of whom have been subjected to sexual enslavement and other forms of physical and sexual violence. ISIL has abducted children, particularly from minority ethnic and religious communities, indoctrinated them and used them in hostilities as fighters and suicide bombers. ISIL issued "orders" prohibiting civilians from leaving areas under its control, hunting down those civilians who attempted to do so. The group also deliberately destroyed civilian infrastructure, or laid booby traps and other explosive devices in the remains of civic infrastructure and in civilian houses prior to its withdrawal from many areas with the intention of killing and wounding civilians returning to their homes, or government and security personnel tasked with securing and clearing or restoring services to those areas.

Effective command and control of armed groups operating alongside the ISF remain a source of serious concern as these groups have reportedly subjected civilians fleeing conflict zones – particularly male above the age of 15-16 - to threats, intimidation, physical violence, abductions and killings. There were also reports, verified by the Monitoring and Reporting Mechanism on children and armed conflict established under Security Council resolution 1612 (2005), that armed groups operating in support of the ISF had recruited children.

UNAMI/HRO continued to receive reports that IDPs in some areas were subjected to harassment, threats, expulsions, destruction of property (including the deliberate demolition of houses) and at

times abductions, and killings by armed groups operating in support of the ISF. Furthermore, some local government authorities issued orders to forcibly evict family members of people known to or perceived to have been supporters of ISIL and to expel them from the districts or governorates, in clear violation of international legal standards and the Constitution of Iraq that prohibit collective punishments and protect other rights.

Ensuring accountability for crimes committed in relation to the ongoing armed conflict, including acts of terrorism and other violence, violations of international humanitarian law, and human rights violations and abuses, no matter when, where or by whom such crimes, violations or abuses were committed, remain significant challenges in Iraq. Presently, the Iraqi courts do not have jurisdiction over international crimes committed in Iraq – and judicial capacity and processes to investigate appropriately, document, charge and try perpetrators of such crimes remains extremely weak or are non-existent. Iraq is not a Party to the Statute of the International Criminal Court (ICC) and has not accepted the jurisdiction of the ICC under article 12(3) of its Statute. The Government is currently examining national and international mechanisms to address international crimes committed by ISIL.

Currently 3.6 million Iraqis have been displaced due to the conflict – with concerns that the campaign to liberate Mosul will put up to 1.6 million more people at risk. With resources for providing humanitarian support at breaking point, many IDPS are left to rely solely on their own resources or on the resources of host communities that were already, prior to the influx of IDPS, in short supply or inadequate.

Armed conflict continues to have a corrosive effect on the respect and protection of a range of other human rights and the rule of law. Physical conditions in many places of detention and prisons remain poor – exacerbated by the current crisis, which has seen detainees and prisoners from many insecure locations transferred to prisons and detention centres that were already over-capacity and poorly resourced. While there are some rehabilitation programmes in prisons, particularly in minimum security facilities, including literacy and computer classes, vocational and work schemes, etc., there are very few programmes and little understanding of the fight against individual radicalization for persons subjected to extremist indoctrination. The physical conditions of women's detention centres and centres of the rehabilitation of juveniles remain extremely poor and they have few services – in some places there are no facilities dedicated to women and children, who are kept in police lock-ups or, in the case of juveniles, in contravention to international law in adult male detention centres and prisons. There are very few, or no services for the rehabilitation of women and children while in detention or programmes to assist them subsequent to their release to ensure their reintegration into society - many are left to face family and social rejection, which renders them extremely vulnerable.

There continues to be a lack of respect for international and constitutional due process and fair trial standards in Iraq's criminal justice system. Police and investigators continue to rely heavily on confessions, which are often coerced through torture and other forms of ill-treatment, or the evidence of secret informants, to justify charges and trial. Judicial capacity remains weak, and judges rarely order investigations into allegations that confessions were forced through torture or mistreatment, preferring to admit such confessions into evidence and relying on them for convictions. Defendants are rarely given the opportunity to present a defence, many appearing without defence counsel. In cases where the court appointed a lawyer to act on behalf of the defendant, no adjournment was granted to counsel to confer with the defendant or to prepare a defence. Access to lawyers in criminal proceedings remains poor. Members of marginalised groups continue to face challenges in accessing justice, including women, children, members of diverse ethnic and religious minority groups, persons with disabilities, etc.

The continued use of death sentences by the Iraqi criminal justice system remains of considerable concern. Executions are often carried out with a lack of transparency in the proceedings required by due process of law – and in light of the weaknesses of the Iraqi criminal justice system, the potential for permanent and irreversible miscarriages of justice remains extremely high. UNAMI/OHCHR estimates that as many as 57 individuals may have been executed by the Government of Iraq in the period from the beginning of January 2016 until 7 July 2016 – but this figure remains unverified owing to the reluctance of the Government to publically acknowledge when executions have been carried out or in what circumstances.

Women and children continued to be subjected to crimes and other forms of violence, including so-called “honour crimes”, and sexual and gender based violence – and in Iraq there are no effective legal or policy frameworks that prevent such violence, protect the survivors of such violence, or ensure the accountability of perpetrators. The “Family Protection Law” has remained stalled before the Council of Representative for over four years – and many of its provisions require amendment to ensure compliance with international standards. Outside of the Kurdistan Region of Iraq there are no government shelters or officially authorised shelters for women who are at risk of sexual and gender based violence. The Government’s policy frameworks for combating sexual and gender based violence, and conflict related sexual violence, remain unimplemented. Women also face systemic and widespread discrimination in accessing basic services, including medical services, education etc., and remain largely disempowered and unrepresented, particularly in senior public service positions, Government posts and in government and political processes.

Members of Lesbian, Gay, Bisexual, Transgender and Intersex communities continue to face widespread societal discrimination, and individuals were subjected to threats, intimidation, acts of violence, at times killings, sometimes from their own family members but often from members of armed groups and militias, based on negative perceptions of sexual orientation or gender identity.

Minority ethnic and religious communities faced significant challenges, not least of which were threats to their security, and discrimination that detrimentally impacted the full enjoyment of their rights. ISIL has particularly targeted ethnic and religious communities pursuant to their *takfiri* doctrines as part of a systematic and widespread campaign aimed at the permanent suppression, expulsion or destruction of these communities that may constitute war crimes, crimes against humanity and genocide. Many of these communities remain displaced – and ensuring accountability for violations and abuses committed against them, and ensuring their return to their places of origin, in full dignity and security and respect for their rights according to international humanitarian principles, and restoring and rebuilding these communities, will be essential to restoring trust between communities and thereby supporting a truly inclusive and enduring national reconciliation process in Iraq. UNAMI/OHCHR in partnership with other stakeholders, engaged in efforts to have appropriate legislation passed by the Council of Representatives that will ensure the respect and protection of the rights of minority ethnic and religious communities and implemented a range of activities aimed at restoring trust within and between communities.

People with disabilities remain particularly vulnerable in Iraq and face significant challenges, including social, economic, and political discrimination that detrimentally impacts the full enjoyment of their rights. Despite acceding to the Convention on the Rights of Persons with Disabilities in 2013, the Government has failed to implement appropriate measures as required by the Convention to enhance the respect and protection of the rights of persons with disabilities and to counter discrimination and other obstacles that they may face. The Government passed a law in 2013 under which a Committee to promote the respect and protection of the rights of persons with disabilities was established. However, the Committee established by the Law operates under the fiscal and administrative authority of the Ministry of Labour and Social Affairs (MoLSA), and does not have the

independence required by the Convention on the Rights of Persons with Disabilities. There are also issues concerning the lack of representation on the High Commission for People with Disabilities as there are (at time of writing) no persons with disabilities on the Commission.

Freedom of expression faced significant challenges in Iraq. Journalists and media professionals continued to suffer threats, intimidation, abduction and killings in carrying out their professional duties. ISIL directly targeted for abduction and killing media professionals and others it believed were transmitting, receiving or expressing opinions and beliefs not in accordance with their *takfiri* doctrines. In other areas of Iraq, UNAMI/OHCHR continued to receive reports of media professionals having been subjected to threats from security forces and other unidentified individuals and groups in carrying out their professional duties, and in some instances, there were reports of journalists being physically abused, abducted, and on occasion killed, by armed groups and unidentified perpetrators. Some media professionals and bloggers were threatened with prosecution under Iraq's criminal libel laws, which some powerbrokers manipulated to silence criticism or prevent public scrutiny of their activities, particularly in relation to allegations of corruption.

Respect for the right of freedom of peaceful assembly continues to be problematic. Public demonstrations took place across many areas of Iraq, particularly in Baghdad and the south-central and southern areas of the country. These demonstrations often focused on lack of Government reforms, ending corruption, lack of security or lack of access to basic services. Generally, the Government respected people's right to participate in public demonstrations, with many being conducted peacefully. Despite this, there were sporadic reports of excessive use of force by security forces to break up or end demonstrations, and reports of individuals being beaten, abused, and on occasion detained by security forces despite participation in peaceful assemblies. On 30 April demonstrators forced their way into the Green Zone in Baghdad, ransacking the Parliament and public buildings in the vicinity. Approximately three weeks later on 20 May, when demonstrators approached the Green Zone complaining of lack of security in the capital and demanding accountability, government forces opened fire on the demonstrators with tear-gas, smoke bombs and by some accounts, live rounds, killing four protesters and wounding a number of others. There were also reports that individuals perceived to have significant leadership roles in organising such demonstrations were targeted for arrest or detention subsequent to the demonstrations, or were targeted for threats, intimidation, physical abuse and on occasion abduction and killings by unknown perpetrators. During the reporting period a bill on freedom of assembly, freedom of information, and freedom of expression was referred by the Council of Representatives for review by the Parliamentary Committees. Many of the Bill's provisions fell below international human rights standards and guarantees on freedom of assembly in the Constitution of Iraq. UNAMI/OHCHR was working in partnership with civil society organisations and members of the Council of Representatives to try to have the bill amended to bring it into compliance with international standards.

Accessing basic services, such as health care, education, housing, water, electricity, and economic opportunity remain serious challenges for many Iraqis. In some areas there is 60 per cent youth unemployment – and the ongoing armed conflict, acts of terrorism, and drop in commodity prices have all detrimentally impacted on economic development and further impaired programmes to improve access to basic services by ordinary Iraqis. Reconstruction and restoration of services in areas damaged or destroyed by armed conflict remain significant challenges.

The Iraqi High Commission for Human Rights (IHCHR) was in the process of reappointment during the reporting period. The term of the former fifteen Commissioners expired on 13 May 2016. Prior to this in February 2016 the Speaker of the Council of Representatives appointed a Committee of Experts (CoE) to oversee the process of nominating a new Board of Commissioners in accordance

with Law no. 53 of 2008 which governs the Commission. However, political disagreements between the major blocs of the Council of Representatives hindered the convocation of the CoE, which was not resolved until early May 2016. UNAMI/OHCHR remains actively involved in supporting the process of nominating the new Commissioners with technical and other assistance, and it is hoped that the process will operate transparently without political interference to ensure that suitably qualified and experienced individuals will be appointed to serve as Commissioners who will act with the standards of independence required by Iraqi law and international standards in implementing the Commission's mandate.

Kurdistan Region of Iraq

In the north of the country UNAMI received reports indicating that armed forces operating under the command of the armed forces of the Kurdistan Region of Iraq Government (Peshmerga), particularly ethnic based contingents, were involved in harassing civilians in areas retaken from ISIL, and on some occasions were involved in expulsions, and destruction of property (movable and immovable).

In the Kurdistan Region of Iraq (KR-I), a number of important laws and amendments to Iraqi legislation aimed at strengthening regional provisions related to human rights were adopted, tabled for discussion or entered into force during the reporting period. These included the adoption of the Law of Protection of the Right of Components in KR-I No. 5 of 2015, and the first reading by the Kurdistan Parliament of the draft law on Combating Human Trafficking in KR-I. On 19 April 2016, MoLSA issued instructions in accordance with the Rights and Privileges of Persons with Disabilities and Those with Special Needs Law No.22 of 2011 to provide guidance on who is entitled to receive benefits based on their disability. Despite these positive steps, laws are not often supported by implementation mechanisms, and many existing laws fail to conform with international human rights obligations. Of particular concern is the Anti-Terrorism Law of KR-I No.3 of 2006, which breaches provisions of the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified and acceded to respectively by Iraq in 1971 and 2011.

UNAMI/OHCHR has serious concerns with regards to due process in terrorism related charges under the Criminal Procedure Code. These include long delays for detainees to be heard by a judge, restrictions on or denial of access to lawyers, or prolonged detention without trial. UNAMI/OHCHR is also gravely concerned by the practice of holding juveniles accused of terrorism, or suspected of terrorist acts with adults in detention facilities. The criminal justice system largely relies on confessions to found convictions, and does not ensure redress mechanisms to process allegations of torture and other ill treatment raised by the defendants before the courts. During the reporting period, detainees reported to UNAMI on a number of occasions that they were forced to confess under duress.

During the reporting period, UNAMI conducted a mapping of conditions across all detention facilities and prisons. This mapping exercise highlighted that efforts by authorities have been deployed to address issues of overcrowding and lack of beds in some of the main facilities; the lack of budgetary funds for regular repair and maintenance of most of the facilities; and particularly poor conditions in the smaller detentions centres.

The displacement of thousands of Iraqis has exacerbated already high levels of domestic violence that existed before the armed conflict in Iraq. Numbers of registered cases of women killed, burned, physically assaulted or sexually abused is on the rise, indicating the high levels of violence against

women in KR-I, but also showing the growing confidence of women and others to report such cases to the authorities

As a positive development, three women were arrested and charged in 2016 for female genital mutilation (FGM) since the enactment of the Act for Combatting Domestic Violence No. 8 of 2011.

The current armed conflict has also highlighted furthermore the vulnerability of ethnic and religious groups. KR-I is generously hosting thousands of internally displaced persons, including from communities such as the Christian, Yezidi, Shabak, Kaka'i and Turkmen as well as Sunni from all communities. Humanitarian Country Team, humanitarian partners, government authorities and donors have invested tremendously in assisting these vulnerable populations; however, financial, capacity and security challenges persist. UNAMI/OHCHR noticed an acute lack of specialized psychological care. It became patent to UNAMI/OHCHR during the course of documenting eyewitness and survivor testimonies in displacement camps that there are large numbers of deeply traumatized women, children and men in need of specialized assistance.

Allegations of illegal use by Kurdish individuals of agriculture lands belonging to Assyrians in the Dohuk Governorate continue to be reported to UNAMI/OHCHR, accompanied by lack of implementation of verdicts of Supreme Court in some cases to cease land breaches against Assyrian owners.

In KR-I, the rights to freedoms of expression, opinion and assembly witnessed a rise of limitations since October 2015, when demonstrations across the Sulaymaniyah Governorate were carried out demanding social equity, end of corruption and that President Massoud Barzani, whose term ended in August to step down.

During the reporting period, UNAMI/OHCHR continued to support the Independent Board of Human Rights (IBHR) to secure its independence by reinforcing its mandate, functioning and structure, including by proposing legislative amendments to ensure its full independence and effectiveness. In May 2016, a Steering Committee co-chaired by KRG and IBHR, and composed of representatives of civil society actors was established to lead the development of a regional human rights action plan for the implementation of the recent recommendations made by the Universal Periodic Review and different human rights Treaty Bodies. UNAMI/OHCHR provided technical assistance to support and facilitate this process.

Human Rights in Iraq: January – June 2016

1. Introduction

The human rights situation in Iraq remained fragile, primarily owing to the ongoing armed conflict between the Government of Iraq and pro-Government forces and the State of Iraq and the Levant ('ISIL' or 'Daesh'). Armed conflict, violence and terrorism had a corrosive effect on a range of human rights, including on the rule of law and administration of justice, the care and protection of women and children from SGBV and CSRV and accountability for the perpetrators of such violence, the respect and protection of the rights of minority ethnic and religious and other communities, protection of sexual minorities, as well as the rights of persons with disabilities, and the respect for the rights of freedom of expression and freedom of assembly. Access to basic services and economic opportunity remain serious challenges for many of Iraq's people.

2. Methodology

The information contained in this report is based, where possible, on direct monitoring and on testimonies obtained directly from the victims, survivors, or witnesses of human rights violations and abuses and/or violations of international humanitarian law. UNAMI/OHCHR continued to conduct interviews with internally displaced persons (IDPs) in the Kurdistan Region of Iraq (KR-I), Kirkuk and Diyala Governorates, and other areas of Iraq, as well as with other victims, survivors, and witnesses of incidents.¹ Information was also obtained from a variety of sources,² including Government and non-government agencies and organizations, and United Nations entities. Unless specifically stated, all information presented in this report has been corroborated and verified using independent, credible, and reliable sources.

The ongoing security situation in Iraq has affected the capacity of UNAMI/OHCHR to undertake direct monitoring and verification of allegations of human rights violations and abuses and violations of international humanitarian law in some areas of the country, particularly in conflict affected areas and in areas under ISIL control. In some cases, victims, survivors and witnesses were reluctant to speak to UNAMI/OHCHR due to threats, intimidation, and/or fear of reprisals. Where reports of incidents have not been cross-checked or verified, they have not been included in this report. The incidents cited in the report are emblematic of the main human rights concerns but they are not exhaustive.

¹ As of 26 July 2016, UNAMI had conducted 896 interviews with IDPs, witnesses and survivors of human rights violations and abuses in areas where they have concentrated. UNAMI also conducts telephone interviews with victims and witnesses of human rights violations and abuses, and civilians who remain trapped in ISIL-controlled areas or who have fled to other areas of Iraq but are not directly accessible.

² These include Government officials and institutions, local and international media, local non-governmental organizations, human rights defenders, tribal leaders, religious leaders, political figures, and civil society actors, as well as United Nations entities operating in Iraq.

3. Protection of Civilians

This section presents an overview of the main issues relating to the impact on civilians of the armed conflict and acts of terrorism associated with it. For a fuller account, see the forthcoming UNAMI/OHCHR *Report Protection of Civilians in the Ongoing Armed Conflict in Iraq: 1 November 2015 – 31 October 2016*.

The ongoing-armed conflict in Iraq continues to have a terrible impact on civilians in terms of deaths, injuries, loss of personal property, destruction of essential infrastructure, and destruction of places of religious and cultural significance. Particularly affected have been Iraq's diverse ethnic and religious communities, which in ISIL's views do not conform to its *takfiri* doctrines and against which ISIL has waged a systematic and widespread campaign aimed at permanently suppressing, expelling or destroying them. The violations and abuses committed in this context may amount to war crimes, crimes against humanity and genocide.

3.1 Civilian Casualties

From 1 January 2014 to June 2016, UNAMI/OHCHR recorded at least 67,075 civilian casualties (22,532 killed and 44,543 wounded) as a result of the armed conflict, terrorism and violence in Iraq.³

From 1 January to 30 June 2016, a minimum of 9,297 civilian casualties resulted from the ongoing violence, including at least 2,735 persons killed and 6,562 wounded.

Baghdad was the worst affected governorate, with a minimum of 6,087 civilian casualties (1,570 killed and 4,517 wounded). Anbar followed with 1,244 civilian casualties (166 killed and 1,078 wounded), while Ninewa recorded the third highest number of civilian casualties with 562 (414 killed and 148 wounded).

3.2 Internally Displaced Persons (IDPS)

There are currently 3.6 million Iraqis who have been displaced as result of the violence – and ensuring their basic humanitarian needs is proving challenging with resources stretched to breaking point and host communities suffering considerable strain. There are concerns that on-going military operations to liberate Mosul by ISF and armed groups operating in support of the ISF may result in an additional 1.6 million civilians in need of humanitarian assistance.

While some IDPs have returned to their places of origin, there continue to be many obstacles to ensuring the safe and dignified return of IDPs in full compliance with international human rights and humanitarian standards.

When withdrawing from certain areas ISIL left IEDs and booby-traps in private houses and public infrastructure aimed at killing civilians on their return or government and security personnel charged with ensuring restoration of basic services and security. Following the campaign to liberate Ramadi by the ISF, which took place through the end of 2015 into early 2016 and which significantly destroyed and damaged civilian housing and public infrastructure, thousands of makeshift booby traps and mines were left by ISIL that killed a number of civilians returning to their houses and security personnel responsible for mine clearance.⁴ The heavy infestation of mines left in the city of

³ UNAMI HRO/OHCHR was not able to obtain civilian casualty figures for Anbar Governorate for October and November 2015, and May 2016 due to armed conflict and lack of access to sources.

⁴ See Associated Press, 'Iraq routed IS from Ramadi at a high cost: A city destroyed', by Susannah George, Desmond Butler and Maya Allueruzzo, 5 May 2016, available online <<http://www.ap.org/explore/a-savage-legacy/iraq-routed-IS-from-Ramadi-at-a-high-cost-A-city-destroyed.html>>

Ramadi also significantly slowed the return of IDPs to the city.⁵ Although Fallujah was not as significantly damaged in the campaign to liberate it as Ramadi had been, Government forces fighting to reclaim the city throughout June 2016 also found heavy concentrations of makeshift mines and booby traps that significantly slowed progress, and later hindered the safe return of IDPs to the town.⁶

For example, in **Anbar Governorate** on 21 April at least four civilians were killed by Improvised Explosive Devices (IEDs) planted in houses in Ramadi. On 23 April, five civilians were killed and seven others were wounded by an IED in a house in Ramadi. On 17 May, the head of the municipality of Heet and another staff member were killed when entering the Municipality Building, which had been heavily booby-trapped with explosives by ISIL.

Owing to the fact that ISIL had deliberately based itself in civilian infrastructure or destroyed it prior to its withdrawal, or such infrastructure suffered significant damage in the fighting to liberate these areas, in many places civilians who remained or returning IDPs found access to basic services, such as water, electricity, and healthcare severely impaired or non-existent.

There were a number of reports that IDPs faced hostility from local Government authorities, including threats of forced eviction, and at times destruction of property, harassment, threats, abductions, and killings at the hands of armed groups operating in those areas. Similarly, there were reports that IDPs attempting to return to their places of origin and civilians who remained in areas that were retaken by ISF and armed groups operating in support of the ISF, faced similar violations.

For example, on 17 January, gunmen reportedly stormed a civilian house in the Tim quarter of Tuz Khurmatu district, **Salah al-Din Governorate**, abducting a Sunni Turkmen. On the same day, gunmen using civilian vehicles abducted two IDPs in the Askari quarter of Tuz Khurmatu district. On 14 April, unknown gunmen entered into a brick factory in an industrial area south of Kirkuk city and killed an IDP from Ninewa who was staying in the factory. In both these instances, witnesses interviewed by UNAMI/OHCHR alleged that the perpetrators belonged to armed groups operating in support of the ISF.

UNAMI/OHCHR received several reports from a number of witnesses that during January and February IDPs who had fled through the Hamreen range from ISIL-controlled Hawija in Kirkuk Governorate toward al-Alam in Salah al-Din Governorate, were intercepted by Peoples Mobilisation Forces (PMFs) and armed groups operating in support of the ISF, and that reportedly a number of males disappeared during the security screening procedures.

In **Kirkuk Governorate**, security forces continued to conduct mass arrests of IDPs in Kirkuk city, frequently citing lack of legal residency documents and/or suspicion of involvement in terrorism. During March, UNAMI/OHCHR recorded three instances of mass arrests in Kirkuk, in which a total of 160 IDPs were arbitrarily detained. For example, on 1 March police in the Qadisiya area in southeast Kirkuk city arrested 96 IDPs reportedly for not possessing legal residency documents, including 23 persons allegedly wanted on criminal charges. By 2 March, 95 of them had been released without charge, while one person remained in custody. On 24 March, Kirkuk Police conducted a search and raid operation in the Huzairan neighbourhood of southern Kirkuk city, arresting 51 IDPs, reportedly

⁵ See Reuters, Iraq's troubled finances slow efforts to rebuild Ramadi, by Stephen Kalin and Ahmed Rasheed, 9 February 2016 available online <<http://www.reuters.com/article/us-mideast-crisis-iraq-ramadi-idUSKCN0VIOOU>>

⁶ See Associated Press, 'Iraqi troops clear Islamic State mines as battle for Fallujah continues' 18 June 2016, available online <<http://www.foxnews.com/world/2016/06/18/iraqi-troops-clear-islamic-state-mines-as-battle-for-fallujah-continues.html>>

for lack of identification documents and for not possessing legal residency documents. The IDPs were held in Adala Police station and were released on the same day. On 31 March, security forces arrested 13 IDPs for lack of residency documentation in Hay al-Mu'alimeen area of Tariq Baghdad in Kirkuk city centre. Those arrested were released after a few hours.⁷

In **Babil Governorate** on 23 April, the detonation of explosives planted near three houses in al-Shuhadaa, Addaye and Intissar areas of al-Hasswa area, Iskandariya sub-district, wounded four civilians and caused damage to houses. According to sources, the families targeted were hosting IDPs from Fallujah.

The deliberate destruction of private civilian property was reported to have taken place between 7 and 9 February in the Qadisiya area of al-Bojeri village in Yathrib sub-district, **Salah al-Din Governorate**. According to sources 72 shops were damaged or destroyed, as well as 17 homes and two guesthouses belonging to a tribal leader. Brigade 17 of the Iraqi Army as well as several militias reportedly controlled the area at the time. On 14-15 March, an armed group operating in support of the ISF (alleged by sources to have been *Asa'ib Ahl al-Haq* - AAH) used explosives to detonate at least 20 houses in the Aziz Balad area of Yathrib sub-district. The houses belonged to Sunni Arab IDPs. AAH has controlled this area since it was retaken from ISIL in December 2014.

In **Diyala Governorate** on 23 January, 538 IDP families mainly from the Azza and Ubaid Sunni tribes, returned to their original areas in Udham sub-district, northeast of Baquba subsequent to a complicated process of screening by security committees that took three months to complete. Sources reported to UNAMI/OHCHR that returnees arrived to find extensive damage and destruction to their properties that allegedly happened after these areas were liberated. On 31 March 354 families returned to Jalawla sub-district; and on 4 April, an additional 365 displaced families returned to the same area. However, the displaced families were only permitted to return after passing through a security screening carried out by a joint committee composed of representatives of the Jalawla city council and Kurdish *Asayish* forces from the Khanaqin/Jalawla Department. Lack of basic services in Jalawla has been reported as one of the main problems faced by returnees and preventing further returns.

From June onwards, the provincial councils and local government authorities in Anbar, Babil, Salah al-Din and other Governorates issued orders that family members of suspected ISIL fighters or sympathisers would not be permitted to return to their homes. In some instances there were reports that houses were subsequently destroyed, or that the families were expelled from their homes for periods of up to ten years, during which they would not be permitted to return and would not be permitted to rent out or otherwise benefit from the use of their properties. For instance, following a compensation agreement (*fasl ashayri* – blood money) according to which the Sunni Arab community must pay compensation to the families of victims of ISIL and al-Qa'eda attacks in **Salah al-Din Governorate**, many families were permitted to return to their homes in Yathrib after passing a security screening process. However, according to UNAMI/OHCHR sources, those families, who have a relative (first or second degree), who is associated with ISIL and who is wanted by the ISF, were prohibited from returning.

⁷ Other incidents of IDP mass arrests in Kirkuk took place on 18 February, 1 March, 24 March, 31 March, and 16 June 2016.

3.3 Violations of IHL and Human rights abuses committed by ISIL

ISIL targeting of civilians

ISIL continued to deliberately target civilians in its operations or carried out indiscriminate operations without taking feasible precautions to protect civilian and to minimise the harm to civilian lives and properties. In **Diyala**, on 11 January, two suicide attackers wearing explosive vests detonated themselves in Asri quarter of Muqdadiya district, northeast of Baquba. The attacks killed 30 civilians and wounded 55 others, mostly men.

ISIL carried out several attacks resulting in mass casualties of civilians or attacks intended to cause harm to a large number of civilians in **Baghdad**. For instance, on 25 February, two suicide attackers detonated explosive vests in a coordinated attack on Rasul al-Azam Shi'a mosque in Shula (northwestern Baghdad, Shi'a majority), killing eight civilians and wounding 18 others. On 25 April, an attack by an individual driving a vehicle laden with explosives near al-Baydha'a Cinema intersection in New Baghdad (eastern Baghdad, Shi'a majority) killed at least seven civilians (including four Iraqi Police officers) and wounded at least 12 others. ISIL claimed responsibility for the attack. On 17 May, a complex attack involving an individual wearing an explosive belt and a nearby explosive device simultaneously targeted the '4000 market' in Shaab (north-eastern Baghdad, Shi'a majority), killing at least 13 individuals and wounding at least 37 others. On 30 June, an attack by an individual wearing an explosive vest in Shurta al-Rabi'a (western Baghdad, Shi'a majority) killed six civilians and wounded 19 others. ISIL claimed responsibility for the attack online.

Although quieter than the rest of the country, the **south of Iraq** experienced a number of civilian casualties as a result of several attacks using powerful IEDs in the southern governorates of Basra, Thi-Qar and Muthanna. ISIL claimed responsibility for all these attacks.

UNAMI/OHCHR documented several incidents in which shelling by ISIL caused civilian casualties and/or caused material damage. In the **Kurdistan Region of Iraq**, on 26 March, shelling by ISIL hit the garden of a house in Mahana village, Makhmur district, Erbil Governorate, resulting in six civilians being wounded and three of them (including a girl aged 12 and a boy aged 16) subsequently dying from wounds sustained from the strike. In **Diyala Governorate**, on 6 May, two mortar rounds struck a residential area near a primary school in the Abu Taba village of Abu Saida sub-district, northeast of Baquba, wounding three residents (one woman and two children). On 28 April, shelling hit Haditha General Hospital in **Anbar Governorate**, wounding six civilians, and on the same day, shelling reportedly wounded five civilians in Barwana sub-district, east of Haditha.

There were several reports during the reporting period alleging that ISIL had used weaponised chemical agents in attacks. UNAMI/OHCHR was not able to verify the actual use of such agents and the reports have not been officially substantiated. However, the consistency of the reports and the symptoms reported strongly suggest that a chemical agent of some kind may have been used by ISIL. The most serious incidents took place in **Kirkuk Governorate**, on 8 March 2016, when up to 41 rockets were fired from ISIL-held territory impacted areas in and around the predominately Turkmen Taza district, south of Kirkuk city. According to sources, an odour emitted from some of the rockets caused breathing difficulties to a number of people who were subsequently admitted to hospital. Symptoms reported included difficulty breathing, skin redness and irritation or burning sensations, and several cases of vomiting. A three-year-old girl died on 11 March, reportedly due to complications from symptoms she suffered after the 8 March attack. On 18 March, a nine-year-old girl also died from complications believed to stem from the 8 March attack (reportedly, initially breathing difficulty and then organ failure).

ISIL targeting of persons opposed to its rule or takfiri doctrines

ISIL continues to target people it perceives are opposed to their rule or *takfiri* doctrines, in particular targeting religious and community leaders; education, medical, media and other professionals (particularly women professionals); members of minority ethnic and religious communities; LGBT communities, and persons associated with the Government of Iraq. Such people are often subjected to ISIL's self-proclaimed courts or subjected to brutal, inhuman treatment including murder, beatings, amputations, physical and sexual violence, etc.

In **Ninewa Governorate**, ISIL carried out numerous killings some of which followed 'sentences' imposed by ISIL self-appointed courts. For example, on 10 January, ISIL killed five men, including two former Police officers, in al-Ghazlani military base in Mosul. An ISIL self-appointed court accused the men of various infractions, including disobeying ISIL instructions and cooperating with ISF. On 14 May, ISIL publicly stoned to death 18 men and a woman at the gate of al-Zahra' mosque in the Tahreer neighbourhood of eastern Mosul, allegedly for adultery.

During the first week of January, ISIL abducted five male teachers from Hay al-Hadba'a, Hay al-Sedeeq, Hay al-Kindy, Hay al-Yarmouk and Hay al-Tayaran areas of Mosul city. It was alleged that all were targeted following their refusal to propagate ISIL's *takfiri* doctrines to students.

On 14 January, ISIL raided two mosques in central Mosul and seized two Imams for violating ISIL instructions with respect to the conduct of prayers and Friday sermons. On 15 January, six Imams in Mosul were abducted after being accused by an ISIL self-appointed court of urging people not to join ISIL through their sermons. On 29 February, ISIL killed two Imams, one from Tabarak al-Rahman mosque in the Hadba area of northern Mosul, the other from the Zain al-Abideen mosque in the Alnour area of eastern Mosul, both by shooting in the head. The victims were killed following a decision of an ISIL self-appointed court, reportedly for disobeying the group's instructions and for preventing young people from joining the group.

In Hawija in **Kirkuk Governorate** on 18 January 2016, ISIL cut off hands of three men in al-Zab sub-district, southwest of Kirkuk, after taking them before an ISIL self-appointed court for alleged robbery. On 28 February, ISIL executed four young men in Hawija district by gunfire in a public yard. Their bodies were then hung on poles in Hawija city center. Sources indicated that they were killed either for attempting to flee ISIL-controlled areas, or for scrawling anti-ISIL slogans on a wall.

Attacks on ethnic and religious communities

ISIL continues to deliberately target ethnic and religious communities for a range of reasons. According to information provided to UNAMI/OHCHR in May, approximately 1,934 Yezidi women, children and some men remained under ISIL captivity. Some community sources claimed that the figure could be as high as 3,500, however, UNAMI/OHCHR is unable to verify the exact number. Irrespective of this, UNAMI/OHCHR has grave concerns for the safety and well-being of those women, children and men who remain in ISIL captivity.

In the morning of 16 January, ISIL held an auction in the Qasim al-Khayat yard, western Mosul, to sell property owned by Christians who fled the city in July 2014. Reportedly, 400 houses, 19 buildings, 167 shops, and furniture were put up for sale.

On 22 January, ISIL murdered two Yezidi men in a square in Ba'aj district after capturing them in Sakiniya village, where the victims had gone to retrieve their tractors. On 31 January, ISIL killed a 17 year-old Shabak man in Bajrbog village, Ba'shiqa sub-district, Mosul district, by shooting him in the head. On 8 March, six women were killed by ISIL south of Mosul. Four of the victims were from the Yezidi community who had tried to escape from ISIL the previous day, but were caught in Hatra district, south of Mosul.

On the morning of 22 March, ISIL blew up three houses in Wadi Hajar and one in al-Mansour. The homes belonged to Shi'a residents who had fled the city in June 2014.

Attacks on places of religious and cultural significance

ISIL continued to destroy and loot places of cultural significance that it views are contrary to its *takfiri* doctrines.

In **Ninewa**, on 14 November 2015, ISIL blew up the al-Farouq Sunni mosque in Ayathiya sub-district, Tal Afar district. The mosque was reportedly destroyed because it contained tombs and graves, which were venerated by local people. On 4 June, ISIL blew up the 2,800 year-old temple of Nabu in Nimroud Sub-district, Hamdaniya district. ISIL posted pictures and videos of the destruction on social media-

Forced recruitment and use of children in hostilities

ISIL continues to forcibly recruit and abduct children, particularly from ethnic and religious communities it views are not in accordance with its *takfiri* doctrines, to indoctrinate them and use them in hostilities, as fighters and suicide bombers.

For example, in **Ninewa**, on 13 March, ISIL moved approximately 25 children between 10 and 17 years of age from the Bara'am orphanage in the Zuhour neighbourhood of Mosul to a training camp for children in Tal Afar district. The children were reportedly from the Turkmen Shi'a community.

On 30 March, in Kharbirdan village, Makhmour district, Erbil Governorate, ISIL launched an attack against the ISF and Sunni tribal fighters. The attack included six individuals wearing explosive vests, two of who were aged between 15 and 16 years of age and were killed by the Iraqi Army in the process of detonating their devices.

In **Kirkuk**, on 4 June, ISIL gathered a number of civilian youth, including juveniles under the age of 18, in a local market in Hawija district town center and loaded them onto a bus with the purpose of forcing them to fight for the group.

In **Diyala**, a suicide attack was carried out by a minor aged 17 years who detonated an explosive belt he was wearing inside a taxi close to al-Salam sub-district on the main road leading to Baquba. Two civilians and two police officers were killed in the incident.

Targeting of civilians attempting to flee areas of ISIL control

Throughout the reporting period, UNAMI/OHCHR received reports that ISIL targeted civilians attempting to flee from their areas of control.

In **Ninewa**, on 15 January, approximately 70 civilians tried to escape from ISIL controlled areas south of Mosul city by crossing the Tigris River into Makhmour district, Erbil Governorate. Of these, approximately 18 men and two women from Haaj Ali and Safina villages in al-Qayyarah sub-district, Mosul, were captured by ISIL as they were fleeing. They were subsequently shot and killed by ISIL in front of other residents. On 22 April, ISIL publicly shot and killed four civilians (three women and one man) from Tan Tarrah, Dwerzat Tahatani, Makuk and Haj Ali villages of al-Qayyarah sub-district of Mosul caught fleeing towards Makhmur district, Erbil Governorate. On 31 May, ISIL shot and killed 11 civilians, including a sixteen year-old boy, after they were caught fleeing from al-Qayyarah city in Ninewa towards Makhmur district, Erbil Governorate. On 6 March ISIL killed three young men after they were captured while attempting to leave Hawija in **Kirkuk Governorate**. The victims were executed by firing squad in a village near Hawija district. On 9 June, an IED was detonated on civilians fleeing from an ISIL-controlled area near Gharra village of Dibis district, west of Kirkuk,

killing one woman and wounding four children. The IED was located on a route used by IDP families fleeing from Hawija towards Kirkuk city through Dibis district.

3.4 Violations by ISF and forces operating in support of the ISF

In conducting operations to liberate areas from ISIL control, there are concerns about the effectiveness of command and control by the Government over armed groups operating in support of the ISF, particularly in relation to the conduct of the Popular Mobilization Forces (PMF) and other armed groups. There were a number of cases, verified by the Monitoring and Reporting Mechanisms established under Security Council resolution 1612, that armed groups operating in support of the ISF had recruited children.⁸

UNAMI/OHCHR has a number of verified reports of civilians (usually males aged 15 years and above) being intercepted by these armed groups, which subject them to physical violence and other forms of ill-treatment and abuse, abductions, and at times killings. There are also reports of IDPs, including those returning to their places of origins, and civilians who remained in areas retaken from ISIL, being subjected to threats and intimidation, destruction of property, abductions and killings by these armed groups.

Unlawful killings, arbitrary arrest and detention, and other violations of human rights

In the **north of Iraq**, on 26 March, ISF shot a civilian man in the leg in Kharbadan village, Makhmour district, after retaking half of the village on 25 March and moving civilians in the retaken area out of the village. There were also reports that some armed groups, operating independently of the ISF or Peshmerga had recruited children. According to the Monitoring and Reporting Mechanisms established pursuant to Security Council resolution 1612, there were six cases of the Kurdish Workers Party and other Kurdish armed groups recruiting children.⁹

In **Ninewa**, on 14 May, Peshmerga forces shot a 21-year old Yezidi IDP in Bear Qasim village, Snouny sub-district of Sinjar district. The victim was shot whilst in a moving vehicle after he, together with five other civilians, went to collect bricks from the village. The six men had allegedly initially been allowed by the Peshmerga to enter the village and collect bricks; however, they were allegedly later told by the same Peshmerga that it was forbidden to collect bricks from the area.

In **Salah al-Din Governorate**, on 12 February, local media reported that gunmen abducted three members of the Iraq Presidential Guard security forces, four truck drivers and four Border Police on the main road between Baghdad and Kirkuk, close to Amerli sub-district. Local authorities in Tuz Khurmatu accused members of the Asayib Ahl al Haq (AAH) and Al Badr organizations of being behind the abduction. Other sources reported to UNAMI/OHCHR that the abductors wore military uniforms and spoke in Turkmen and that only one of the armed groups named by the local authorities had been responsible.

⁸ See *Annual Report of the Secretary-General on children and armed conflict (A/70/836-S/2016/360)* issued on 20 April 2016, para. 59: "Of the cases, ... 12 [were attributed] to groups under the umbrella of the popular mobilization forces. Cases of child recruitment by the popular mobilization forces, which since April 2015 have been under the authority of the Prime Minister, included the coercion of eight boys to go to a military training camp and the recruitment of four boys who were killed while fighting ISIL in Bayji, Salah al-Din governorate." Available online <https://childrenandarmedconflict.un.org/wp-content/uploads/2015/10/15-18739_Children-in-Conflict_FINAL-WEB.pdf>

⁹ See *Annual Report of the Secretary-General on children and armed conflict (A/70/836-S/2016/360)* issued on 20 April 2016, para. 59, available online <https://childrenandarmedconflict.un.org/wp-content/uploads/2015/10/15-18739_Children-in-Conflict_FINAL-WEB.pdf>

Sources reported that in the period 1-5 March, approximately 500-550 male members of the Sunni community from Khumrani and Juza villages in Jazeera Tikrit area were taken away by AAH following a security operation carried out jointly by Federal Police and armed groups. All the female residents were released after a brief period. Some residents of Juza village alleged that they were subjected to ill-treatment, threats and beatings. As of mid-August, between 400-450 of those taken away at the beginning of March remain unaccounted for.

An ISIL-claimed attack on 16 June that resulted in the deaths of the well-known head of the Tuz Police and four other high-ranking officers triggered a reprisal attack on the Amerli¹⁰ police station, where at least six Sunni Arab detainees were killed. One source reported to UNAMI/OHCHR that victims were beaten, strangled and shot. Other sources claimed that the attack was perpetrated by members of the PMF. Subsequently, on 18 June, PMF denied responsibility, claiming to media that unidentified gunmen had stormed the detention centre and shot the detainees.

In **Diyala Governorate**, also on 1 March, gunmen, alleged by sources to have been members of an armed group operating in support of the ISF, abducted seven civilians from different quarters of Muqdadiya and Baquba districts.

On 23 April, gunmen alleged by witnesses to belong to an armed group operating in support of the ISF, attacked a civilian vehicle on a road near Wajihya sub-district, northeast of Baquba. According to sources, three adult male civilians were killed and one woman was wounded. The victims were Sunni Arab residents of Bet Darb in Wajihya sub-district.

On 23 June gunmen, at least nine of them, and alleged by witnesses to belong to an armed group, operating in support of the ISF, used four-wheel drive vehicles to block a Police convoy transferring five detainees in a remote part of Harouniya area, northeast of Baquba. The gunmen pulled the detainees out of the police vehicles and executed them on spot, while the Police did not intervene. The victims were Sunni Arab Al-Waisi tribe members.

Several incidents occurred in **Anbar Governorate** during the military operation to retake Fallujah from ISIL, which lasted from 22 May to 26 June 2016. UNAMI/OHCHR received reports alleging that at least 80 men and boys were abducted after they fled al-Sejar, in the Abo Sdyrah area in Shyha on 27 May by members of armed groups operating in support of the ISF. As of 17 August 2016, those abducted remained unaccounted for.

On 29 May, an armed group operating in support of the ISF killed seventeen young men in Garma. Sources reported that the victims had been abducted by ISIL and had been detained in a jail; when the armed group operating in support of the ISF entered the jail, they believed that the victims were ISIL members and killed them. Another witness contradicted this, and reported that the 17 victims were men and youths fleeing Garma with other civilians, but were killed by the armed group in an act of revenge.

On around 4-5 June, thousands of civilians fled from their village in Saqlawiyah, near Fallujah. Nearly all belonged to the Albo Akash clan of the al Mahamda Tribe and were intercepted by an armed group operating in support of the ISF, identified by witnesses as *Kata'ib Hezbollah*. The militia immediately separated approximately 1500 men and teenage boys from the women and children, who were transferred to Government-run camps for displaced people near Amiriyat al Fallujah.

¹⁰ Amerli is a Shi'a Turkmen community that was under siege by ISIL for several months in 2014. Since that time, militias have been a strong presence in the area. Several villages surrounding Amerli and Sulaiman Beg were burned and destroyed by militias in the weeks following the broken siege on Amerli town and since that time, Sunni Arab residents of these areas have not been permitted to return.

Eyewitnesses subsequently interviewed by UNAMI/OHCHR stated that mistreatment began almost immediately. On 5 June, they were separated into two groups – one consisting of 605 men and boys, and the other of around 900. The smaller group was then handed over to government authorities (including the bodies of four men who, based on photographs taken at the time they were handed over, had their hands bound and appeared to have been beaten to death), and were transferred to join the women and children in the Government clearance centre in Amiriyat al Fallujah. A list was produced with the names of 643 missing men and boys, as well as of 49 others, who were summarily killed or tortured to death while in the initial custody of *Kata'ib Hezbollah*. Tribal leaders informed UNAMI/OHCHR that there are around 200 others who are unaccounted for. On 6 June, Iraqi Prime Minister Haider al-Abadi announced publicly the establishment of a committee to investigate “any violations of the instructions on the protection of civilians” and issued “strict orders” to hold accountable those responsible for any abuses.¹¹

Destruction of private property and attacks targeting places of religious significance

It was reported to UNAMI/OHCHR that on 27 December 2015, in **Salah al-Din Governorate**, PMF destroyed two houses in Abu Handhal village in Aziz Balad area of Balad district. According to sources, the majority of the houses had been destroyed by PMF after the village had been retaken from ISIL in December 2014.

In **Diyala Governorate** on 11 January 2016, members of an armed group operating in support of the ISF detonated explosives in, and set fire to, seven Sunni mosques in Muqdadiya district, northeast of Baquba. No associated civilian casualties were reported. On 8 April, an explosive device detonated near al-Falah mosque in Omraniya village, Wajihiya sub-district, northeast of Baquba, reportedly killing two civilians – the Imam of the mosque and his son – and wounded another two.

On 3-4 January, attacks carried out by members of armed groups operating in support of the ISF targeted Sunni mosques in **Babil Governorate**. Late in the evening on 3 January, the Ammar Bin Yassir mosque in Hilla was significantly damaged by explosives. On 4 January, an explosion destroyed the al-Fatah mosque in Sinjar village, west of Hilla. The attacks (but not the identities of the perpetrators) were confirmed online by the Ministry of Interior (Moi).

In **Ninewa Governorate** were reports that forces operating under the command of the armed forces of the Kurdistan Region of Iraq Government (Peshmerga), particularly ethnic based contingents, targeted civilians in retaken areas for harassment, and on some occasions, expulsions, and that on occasion their property (movable and immovable) was deliberately destroyed. For instance, on 14 January, security forces of the KR-I allegedly destroyed more than 20 houses belonging to Sunni Arab families in Der Um Toutha village, Wana sub-district of Tal Kaif. The destruction reportedly followed the forced displacement of the villagers to an unknown location by Kurdish security forces.

Shelling and Airstrikes

UNAMI/OHCHR received a number of reports alleging civilian casualties directly resulting from shelling and airstrikes – although reports concerning the latter, including the number of casualties and who may have been responsible for these airstrikes, remain largely unverified owing to limitations on access to the sites or to credible sources.

On 11 January, an airstrike was reported to have hit a bank in the al-Zuhoor neighbourhood of Mosul. Two sources reported that the airstrike killed two civilians, while two other sources reported

¹¹ See BBC, IS conflict: Falluja detainees 'tortured by Shia militias', 6 June 2014 available online <<http://www.bbc.com/news/world-middle-east-36458954>>

that three civilians were killed. Sources confirmed that six civilians were also wounded and that an unconfirmed number of ISIL members were killed. International media reported that the bank was a cash storage facility for ISIL, holding millions of dollars, a claim that UNAMI/OHCHR was unable to confirm.

On the morning of 7 March, unattributed airstrikes hit an apparent ISIL weapons storage facility in the al-Yabsat neighbourhood of western Mosul. The attack reportedly killed 21 civilians, including women and children.

On 24 May, airstrikes reportedly resulted in 15 civilian casualties in the Seventeen Tamuz and Rashidiyah areas of Mosul. The airstrikes reportedly targeted houses occupied by ISIL elements in these areas.

On 11 June, airstrikes reportedly struck Hai al Sakak in al-Qayyarah city, killing a family (one man, one woman, and two children). Reportedly, ISIL fighters had been residing in the house next door.

3.5 Violations and abuses by unidentified perpetrators

UNAMI/OHCHR received consistent reports of attacks and killings, often targeting civilians, throughout the reporting period. The perpetrators of these attacks remain unidentified, however in many cases circumstantial evidence information received from unconfirmed sources suggests strongly which armed groups may have been responsible.

Killings and abductions

Baghdad Governorate witnessed frequent killings in the reporting period. For example, on 13 January, Iraqi Police found the bodies of 11 men with gunshot wounds in the Tarmiya (northern Baghdad, Sunni majority). On around 24 January, three civilians from Anbar were reportedly abducted in Zafaraniyah (eastern Baghdad, Shi'a majority) and their bodies (mutilated, according to one source) were later found in the city. On 31 January, Iraqi Police found two male bodies with gunshot wounds in Doura (southern Baghdad, Sunni majority). On 18 June, Iraqi Police found four bodies with gunshot wounds in Sabea al-Boor (northern Baghdad, Sunni majority). The bodies were later identified as belonging to displaced persons from one family from Fallujah.

In **Salah al Din Governorate** on the evening of 11 February, two civilians were killed in the centre of Tuz Khurmatu in separate attacks by unidentified gunmen. The victims were from the Kurdish and Turkmen Shi'a communities, respectively.

In **Diyala Governorate** on 15 February, the death of a UNAMI national staff member, who had been abducted by unknown gunmen on 26 April 2015, was confirmed. The staff member had been serving as a Government Liaison Officer in Baquba at the time of his abduction. His body, initially unidentified, was found near Baquba in November 2015 bearing a gunshot wound to the head, and was later identified on 15 February.

In **Kirkuk Governorate** on 17 May, unidentified gunmen using small arms fire shot and killed a local council member from Riyadh sub-district council outside his home in al-Amal al-Sha'abi neighbourhood, northwest Kirkuk. On 9 June, unidentified gunmen opened fire and wounded a local civic activist near his home in Kirkuk city center. The victim was a Kurdish resident of Kirkuk, well known for his criticism of the local government. On 25 June, unidentified gunmen opened fire on the vehicle of a Police and killed the officer instantly. The victim was a member of the Sunni Arab community and the head of the Kirkuk Passport Department of the MoI until recently, when he was demoted as section head of the Kirkuk Civil ID Department.

Although not a frequently documented phenomenon, during the reporting period UNAMI/OHCHR recorded some cases of killing of members of the Sunni community and one person associated with the former regime in the **south of Iraq**. For example, on 16 March, a man was executed, in Abu al-Khaseeb district by unidentified gunmen. The victim was the head of a Sunni sub-tribe (al-Refai).

Bombings of civilians and civilian infrastructure and property

Attacks employing IEDs by unknown perpetrators occurred in **Baghdad and other areas of the country** on an almost daily basis. For example, on 11 January, armed men conducted a complex attack at al-Jawhara shopping centre in the Shia-majority New Baghdad/Baghdad al-Jadida area of eastern Baghdad. The attack commenced with the detonation of a vehicle laden with explosives, followed by the detonation of vests by suicide attackers, and small arms fire. An undetermined number of hostages were taken when the armed men stormed the shopping centre. ISF ended the siege after approximately one hour. According to sources, 17 civilians (including three Iraqi Police) were killed and 20 other civilians were wounded.

On 20 April, an IED detonated in a farm in the Sunni-majority Had al-Akhdhar village, Abbara sub-district, northeast of Baquba, **Diyala Governorate**, killing one civilian and wounding two others. The victims were Sunni Arab residents of the same area working as farmers.

The **Kurdistan Region of Iraq** was not spared from IED attacks. On 31 March, an attack by an individual driving a vehicle laden with explosives in front of a police station in Makhmour district, **Erbil Governorate**, killed three police officers and wounded five others.

3.6 Tribal conflicts

Inter-tribal conflicts in the south of Iraq have brought with them their own particular challenges and have impacted on civilians where clashes have taken place. The beginning of the reporting period coincided with an increase in the number of tribal clashes. As a result, in early January the Prime Minister ordered the deployment of a heavily armed special force to Basra with orders to halt the escalating tribal conflicts by confiscating weapons and arresting persons identified as participating in or instigating the clashes.

Examples of these conflicts include an alleged threat that was made by the al-Halaf tribe on 26 March against all members of the al-Garamasha tribe that any member of the latter would be attacked on sight. The nature of the dispute between the tribes, which are both in the al-Qurna district, north of Basra governorate, was not identified.

4. Rule of Law and Administration of Justice

4.1 Legal Framework

Iraq's criminal justice legislation contains some provisions protecting due process and fair trial rights – however, there are gaps in the legislative framework and in many cases these provisions are not applied. The criminal law continues to contain provisions that are discriminatory against women and children (such as provisions accepting “honour” in mitigation of crimes of violence against family members), or which criminalise certain acts that may be exploited to affect the legitimate enjoyment of certain rights (such as criminal libel and defamation). The Anti-Terrorism Law no. 13 of 2005 is vague in its application, does not include due process guarantees and fair trial rights, and its application remains of particular concern.

Ensuring accountability for crimes committed in relation to the ongoing armed conflict, including acts of terrorism and other forms of violence, violations of international humanitarian law, and human rights violations and abuses, no matter when, where or by whom such crimes, violations or abuses were committed, remain significant challenges in Iraq. Presently, the courts do not have jurisdiction over international crimes committed in Iraq – and judicial capacity and processes to investigate appropriately, document, charge and try perpetrators of such crimes remains extremely weak or are non-existent. Iraq is not a signatory to the Statute of the International Criminal Court (ICC) and has so far refused to accept the Court’s jurisdiction in relation to the conflict to the under article 12 of its Statute.

4.2 Administration of Justice

Due process

UNAMI/OHCHR remains concerned at the lack of consistent adherence to due process and fair trial requirements,¹² in particular, the frequent failure to inform persons upon arrest of the reasons for arrest and the charges being brought against them, frequently prolonged pre-trial detention, lack of regular or appropriate access to legal counsel, infrequent visits by the Prosecutor’s Office, and delays in carrying out review of the detainees’ legal status by investigating judges.¹³

In practice, it is difficult to ascertain whether warrants and detention orders are issued as required by the relevant laws, since accused persons are not usually furnished with copies of the arrest warrants. UNAMI/OHCHR continues to receive complaints from a significant number of detainees and individuals subsequent to their release, that they did not know the reasons for their arrest or detention, and that they had not been provided with the details of the actual charges for which they had been arrested. A number of detainees alleged that they had been detained for reasons not connected to any crime as prescribed in criminal law, but for not paying bribes to security officials, or for sectarian, or other reasons.

UNAMI/OHCHR received a number of complaints that access to lawyer and legal counsel was not provided to persons held on remand and during investigation proceedings. On the rare occasions that access to lawyers was permitted, this was usually during trial when the court would appoint a lawyer to act on behalf of the accused after all investigations had been completed. There is no right to remain silent under Iraqi law or in practice.

From ongoing monitoring, UNAMI/OHCHR has found that accused persons are rarely produced before a judge within the 24 hours as required by the law. UNAMI/OHCHR has recorded many instances where accused persons have been held beyond the limits prescribed by law; and many detainees complained that they had not been brought before an investigative judge at all during the period of their detention. Where accused persons were produced before a judge, the proceedings were perfunctory, merely to confirm the identity of the accused who would often then be returned to their cells without being informed of the process that would then be applied to them or clarification of the charges being brought against them.

¹² For a comprehensive overview of powers of arrest and due process requirements under Iraqi law, see UNAMI/OHCHR, *2010 Report on Human Rights in Iraq*, section 4.5 p.20, January 2011, available online <http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=43_cc04be363b73c29225e79d7ae57e87f2&Itemid=650&lang=en>

¹³ UNAMI/OHCHR has documented cases where some detainees have been held without formal charge and trial for up to eight years.

Police and investigators continue to rely heavily on the information provided by “secret informants” or on confessions obtained during the investigation, which a large number of witnesses interviewed by UNAMI/OHCHR claimed were coerced through torture and other forms of ill-treatment (see below).

Standards of Detention

Physical conditions in many detention facilities and prisons remain poor – with overcrowding putting strains on poorly maintained or out-dated infrastructure, including water, sewerage, air ventilation, and other services, etc. The situation has been exacerbated by the ongoing financial and security crises, which have seen detainees and prisoners from many insecure locations transferred to prisons that were already over-capacity and poorly resourced. For example, al-Hoot prison in Nassiriyah, **Thiqar Governorate**, Basra Central Prison in **Basra Governorate**, and other federal institutions, which were overcrowded prior to the onset of the ongoing conflict, received large numbers of prisoners and detainees transferred from facilities in Baghdad and other areas, such as from Baghdad Central (Abu Ghraib) Prison, al-Taji Prison, and al-Adalah Facilities. The transferees included detainees accused of, and prisoners convicted under, the Anti-Terrorism Law no. 13 of 2005, other prisoners charged with or convicted for serious crimes, and so-called “High Value Detainees” (HVDs), who were associated with the former regime of Saddam Hussein and most of whom were convicted by the Iraqi High Tribunal (IHT).

While there are some rehabilitation programmes in prisons including literacy and computer classes, vocational and work schemes, etc., particularly in prisons with minimum security facilities, there are very few programmes aimed at countering radicalization for inmates who had previously been subjected to extremist indoctrination.

Women’s detention centres and centres of the rehabilitation of juveniles remain extremely poor in terms of physical conditions and have limited services. In some places in Iraq there are no facilities dedicated to women and children, who are kept in police lock-ups or, in the case of juveniles, in adult male detention centres. There are very few, or no services for the rehabilitation of women and children while in detention or subsequent to their release to promote their reintegration into society, and on release many face family and social rejection, rendering them extremely vulnerable.

On 6 April 2016, UNAMI/OHCHR conducted a monitoring visit to al-Rusafa female detention facility that operates under the authority of the Ministry of Justice. The purpose of the visit was to monitor the conditions of detention and the treatment of detainees. UNAMI/OHCHR met with the detention facility Director and other staff, and briefly inspected the facility, including areas where convicted prisoners and pre-trial detainees are housed and the vocational training area. Main challenges encountered included delays in entering the prison at checkpoints at the external perimeter of the compound as well as the constant presence of correction officers during the interviews, which did not allow for any private conversations to take place with the inmates. As with previous visits to the facility,¹⁴ the main problems concerned the poor physical conditions and overcrowding. In addition to tackling the above issues through long-term solutions, UNAMI/OHCHR recommended the regular provision of gender-specific health-care services and an individualized, gender-sensitive, trauma-informed psychiatric service for the diagnosis and possible treatment of mental health-related conditions, in view of the specific needs and vulnerabilities of certain female prisoners.

Conditions of detention for juveniles in **Basra** were found to be inadequate when visited by UNAMI/OHCHR. Children held at the only dedicated detention centre for young offenders were kept

¹⁴ UNAMI HRO/OHCHR visited the facility in December 2012 and October 2013.

in a single cramped room with no beds, one small window, and only a single toilet in one corner. They enjoyed only limited recreational facilities and access to outside spaces. UNAMI/OHCHR held meetings with a number of relevant ministries, UN agencies and other actors to see what could be done to improve the situation, particularly by exploring the possibility of accommodating young offenders in a more adequate temporary facility until a new facility for young offenders that is being built behind the men's prison is completed.

Allegations of Torture and other Ill-Treatment

Despite the Constitution and laws of Iraq and international *jus cogens* standards, which absolutely prohibit torture, there is significant evidence that torture and ill-treatment of persons in detention remains widespread. UNAMI/OHCHR continued to receive a number of complaints from detainees, prisoners, and defendants during court proceedings, or individuals subsequent to their release, alleging that they had been subjected to torture and ill-treatment to obtain confessions during investigation.

For example, on 3 April, a man was arrested while working on his block of land in the al-Zaytoon area of Basra by Iraqi Police and taken to their headquarters in Basra for questioning. According to information received, the victim was reportedly tortured while in custody leading to his death due to heart failure. His body was later transferred to the morgue and an autopsy was performed. Photographs of the deceased's body and the results of the autopsy were all consistent with the allegation that the victim had died as a result of torture.

4.3 Due process and fair trial standards

Compliance with international and constitutional due process and fair trial standards remains problematic.¹⁵ Judicial capacity remained weak, and judges rarely investigated allegations that confessions were obtained through torture or ill-treatment, treating these confessions as admissible evidence and relying on them for convictions in contravention with international law. Defendants were rarely given the opportunity to present a defence, many accused never having the opportunity to meet with a lawyer, or to have a lawyer present at any time during the investigation or pre-trial processes, most appearing in court without defence counsel. In cases where the court appointed a lawyer to act on behalf of the defendant, no adjournment would be granted to the defence counsel to confer with the defendant or to prepare a defence. Access to lawyers in criminal proceedings remained limited and the quality of representation remained poor.

For example, on 27 December 2015, UNAMI/OHCHR monitored the second session of the second 'Camp Speicher' trial in Baghdad¹⁶ during which thirty-six defendants stood trial accused of

¹⁵ For a comprehensive overview of fair trial requirements under international and Iraqi law, see UNAMI/OHCHR, *2010 Report on Human Rights in Iraq*, section 4.6, p.25, January 2011, available online <http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=43_cc04be363b73c29225e79d7ae57e87f2&Itemid=650&lang=en>

¹⁶ The second trial followed the first 'Camp Speicher' trial held on 7 July 2015, in which 24 men were convicted and sentenced to death. No lawyer represented the defendants during the proceedings, which consisted of the presiding judge bringing each of the defendants before the court to inquire as to how they pled, to which most of the 28 defendants pleaded not guilty. Nineteen of the defendants alleged to the court that their confessions, which was the only evidence before the court, had been coerced under torture; however the judges made no inquiries into these allegations and admitted the confessions into evidence. The judges then retired to consider the "evidence" and emerged after two hours of deliberations to pass convictions against twenty-four of the defendants, all of whom were sentenced to death. The remaining four were found 'not

involvement in the disappearance and/or killing of 177 Camp Speicher soldiers.¹⁷ Before the session started, some relatives of the victims (some crying) insulted and threatened the defendants. One person shouted that a lawyer of the defendants (seated on the first row) supported the “terrorists” and that they would kill the lawyers. The presiding judge did not intervene to control the courtroom or to admonish family members who interrupted throughout the proceedings from the public gallery. Out of 36 defendants, seven apparently had private lawyers (although it was unclear whether any of them had an opportunity to meet with their lawyers prior to the proceedings), of whom only one was present in the courtroom. Another lawyer, who happened to be present in court, was appointed by the presiding judge to represent the defendants – but no adjournment was granted so he could converse with his clients or to prepare their defences. Later in the session, when the presiding judge called the lawyer, it became apparent that he had fled from the courtroom, fearing the threats made against him by the victims’ relatives present in court.

The presiding judge commenced the proceedings by reading statements on behalf of the relatives of the victims if the relatives were not attending the trial or if the relatives were present in the courtroom by giving the floor to the relatives to make statements under oath. None of the statements provided by the relatives contained any evidence linking the defendants to the acts for which they were charged, but most were “victim impact statements” or recounted the last telephone conversation they had with their relatives from Camp Speicher. Several relatives (either in written statements read by the presiding judge or given orally under oath) accused Sunni Arab tribes from Salah al-Din (such as the Albo Ajeel and Albo Nasr) of perpetrating or complicity in the crimes (both abductions and killings) as well as high-ranking Iraqi Army officers. Following the victims’ family statements, the judges adjourned the proceedings.

The third session of the second ‘Camp Speicher’ trial was supposed to take place on 3 January 2016, but it was later cancelled owing to the fact that the Court of Cassation returned the verdicts from the first ‘Camp Speicher’ trial to the Court at first instance. Accordingly, the second ‘Camp Speicher’ trial (sessions held on 29 November and 27 December 2015) was merged with the retrial of a number of those convicted in the first Camp Speicher trial, becoming the third ‘Camp Speicher’ trial, with a total of 47 defendants before a panel of three judges. UNAMI/OHCHR was not able to ascertain which of the defendants had been tried in the first trial or were from the second trial.

The third ‘Camp Speicher’ trial – monitored by UNAMI/OHCHR – took place on 18 February at the Iraqi Central Criminal Court in Baghdad, a result of which 40 of the 47 defendants were convicted and sentenced to death.¹⁸

The trial commenced at 10:20 and finished at 13:15, during which time each defendant was called and questioned by the Presiding Judge. Nine defendants indicated that they had hired lawyers, however none of these lawyers were present in the court during the hearing. Consequently, the presiding judge appointed a lawyer who happened to be present in the court to represent all 47 defendants – however, as in the earlier proceedings, no adjournment was granted to the lawyer to converse with his clients or to prepare their defences.

guilty’ as they had not made confessions. One of those found not guilty it later emerged was a soldier who had escaped from Camp Speicher. The entire proceedings lasted around 4 hours.

¹⁷ The first session of the second ‘Camp Speicher’ trial had been held on 29 November 2015, but it was adjourned after only a few minutes, as one of the defendants was absent due to a medical condition.

¹⁸ On the Speicher mass killing, see UNAMI/OHCHR Report on the Protection of Civilians in the Armed Conflict in Iraq: 11 December 2014 – 30 April 2015, Annex 1, pp. 37-41.

During questioning by the Presiding Judge, 19 defendants claimed to have been tortured during investigation by Iraqi authorities. Others claimed to have been forced to confess or to sign falsified confessions. The Presiding Judge dismissed these claims peremptorily. In one instance, in response to an attempt by a defendant to show to the judge the physical marks on his legs that he claimed were caused by torture, the judge refused to investigate the claim, stating that any signs of torture would have disappeared in the six months since the man's alleged confession was secured. When the same defendant challenged the authenticity of the signature on his alleged confession, the Presiding Judge berated the defendant, stating that 'professional honour' would prevent investigators from falsifying such a document.

The courtroom was full of relatives of Camp Speicher victims, some of whom carried placards and pictures of victims. In response to the only intervention by the Court appointed lawyer, which was a perfunctory statement that he read at the close of the proceedings in which he called for the 47 defendants to be acquitted under Article 182 of the Criminal Procedure Code no. 23 of 1971 on the basis of lack of evidence and claims of torture, the proceedings had to be stopped and the defendants evacuated because victims' family members present in the gallery threw chairs at and attempted to attack the defendants. The judges temporarily left the courtroom. Once order was restored, the defendants returned to the court for the delivery of the verdicts and sentences in the absence of their lawyer who refused to return due to security concerns. Forty of the defendants were found guilty and sentenced to death, while seven were acquitted for lack of evidence.

On 31 July, the Court of Cassation upheld 36 of the 40 death sentences, commuted one sentence to life imprisonment, quashed three sentences, and also upheld the seven acquittals. As per the Iraqi Criminal Procedures Code no. 23 of 1971, the verdicts upheld by the Court of Cassation were then transmitted to the Office of the President of the Republic of Iraq for issuance of the Final Decree required by law before a death sentence can be implemented.

Information obtained by UNAMI/OHCHR on 14 August 2016 indicated that the President had signed the Final Decree authorizing implementation of the death sentences passed on all 36 convicted for the Camp Speicher massacre.¹⁹ On 23 August, the UN High Commissioner for Human Rights expressed deep dismay at the executions, noting that fair trial standards were not met. The UN High Commissioner for Human Rights urged the Iraqi authorities to halt all imminent executions and to urgently conduct a comprehensive review of the criminal justice system in the country.²⁰

Based on the monitoring of the trial and information gathered from other sources the Camp Speicher trials fell significantly short of international fair trial standards. UNAMI/OHCHR repeatedly advocated with Iraqi authorities for the convictions to be set aside, the evidence be reviewed, and those indicted released or retried according to national and international due process and fair trial guarantees. However, the Government of Iraq refused to intervene.

¹⁹ International media quoting Iraqi officials reported that on 21 August, Iraqi authorities in Nassiriya prison executed by hanging the 36 men convicted of the Camp Speicher massacre. According to the spokesperson of the Governor of Thi-Qar quoted by the media, the Governor and the Justice Minister were present to oversee the executions. Some relatives of the victims of the Camp Speicher massacre were also in attendance. The Ministry of Justice published online a statement regarding the executions (available online <<http://www.moj.gov.iq/view.2520/>> (accessed 22 August 2016)) and two sources confirmed to UNAMI/OHCHR that the executions had been carried out. available online <

²⁰ <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20405&LangID=E>> (accessed 23 Aug 2016)

Attacks on judges and lawyers

There were a number of attacks on judges and lawyers during the reporting period. In many cases the identities of the perpetrators and their motives are not known.

In **Basra Governorate** on 1 February, the President of the Basra Court of Appeal survived an assassination attempt near his house in Kut al-Hijaj quarter. An IED weighing 20kg was planted near the judge's house and was triggered upon his return home; however, it failed to detonate. In an official statement, the Governor of Basra condemned the assassination attempt and inferred that it might have been in revenge for the judge who had sentenced several individuals to death after being convicted of kidnapping, armed robbery, and homicide. While visiting the crime scene, the Governor called for the immediate public execution of those whom the judge had convicted.

In **Diyala Governorate** on 4 January, an investigating magistrate of Baquba court was shot and killed in his car by unidentified gunmen travelling in a civilian car near al-Razi checkpoint, western Baquba. The magistrate belonged to Sunni Arab community. On 5 June, unidentified gunmen using a civilian vehicle reportedly killed a Sunni Arab lawyer while driving his car on the Jumhoriya Bridge in the city center of Baquba.

In **Kirkuk Governorate** on 22 June, unidentified gunmen opened fire on the vehicle of a lawyer near the '4th Bridge' in southeastern Kirkuk city. The lawyer, a member of the Kurdish community of Kirkuk, was killed instantly in the attack.

In **Baghdad**, on 8 March, Iraqi Police found one male body with gunshot wounds in Shula (north-western Baghdad, Shi'a majority). The victim was later identified as a lawyer.

In **Babil**, on 26 January, unidentified masked gunmen killed a lawyer and seriously wounded his driver in al-Asriya sub-district, northern Babil. The lawyer reportedly was involved in defending terrorism-related cases. On 8 June, one civilian was shot and wounded in Hilla by unknown gunmen. The victim was a lawyer known to be working on terrorism-related cases.

4.4 Death Penalty

Since 2015, the Ministry of Justice instructed its staff not to communicate information to UNAMI/OHCHR in relation to death sentences implemented in Iraq and consequently UNAMI/OHCHR has not been able to ascertain the exact number of persons executed by Iraq during the reporting period. UNAMI/OHCHR has reiterated to the Government of Iraq that executions and sentences implemented pursuant to judicial proceedings are a matter of public interest, which also requires that such decisions should be implemented in a transparent manner with full public disclosure in conformity with due process obligations.²¹

In a press conference held on 16 March, the Minister of Justice, Dr. Haider Zamili, announced that 20 individuals, including both Iraqi and foreign nationals, had been executed. The exact time period in which they were executed was not mentioned in the Minister's statement.²² According to a source, all the executions had been carried out in 2016. Local media, also quoting the Minister of Justice, later reported that on 6 March, 20 individuals (including an unspecified number of foreigners) had been executed.

²¹ OHCHR, Press Briefing Notes, 16 February 2016, at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17051&LangID=E> (accessed 14 August 2016)

²² <http://www.moj.gov.iq/view.2236/> (accessed 16 August 2016)

On 23 May, the Ministry of Justice announced on its website that 22 individuals had been executed during the previous month. They had reportedly been convicted of terrorism-related crimes and other serious crimes.²³ On 24 May, the United Nations Office of the High Commissioner for Human Rights expressed concern at the announcement, recalling its request to the Government of Iraq to impose a moratorium on all death sentences and executions, particularly given the weaknesses of the Iraqi criminal justice system and non-compliance with international due process and fair trial standards.²⁴

On 4 July, the Ministry of Justice announced that five individuals were executed, which according to the statement brought the total of those executed in the previous two months to 37 individuals.²⁵ In the statement, the Minister demanded an amendment to the Iraqi Criminal Procedure Code no. 23 of 1971 to allow for death sentences to be implemented if the President does not issue the final decree necessary to implement the sentence within one month of the referral to the President requesting the issuance of the decree.

At the news conference held on 6 July 2016, the Ministry of Justice stated: " (...) the Ministry of Justice has implemented 45 death executions since the beginning of the current year until yesterday Tuesday [5 July 2016] against several convicts in various terrorist and criminal cases (...)"²⁶ However, based on the figures released by the Ministry of Justice to the media reported above and information gathered by UNAMI/OHCHR, a conservative estimate suggests that at least 57 people may have been executed from the beginning of the year until 4 July 2016.

4.5 Kurdistan Region of Iraq

Legislative Framework

In the Kurdistan Region of Iraq (KR-I), a number of laws and amendments to Iraqi legislation aimed at strengthening regional provisions related to human rights were proposed, adopted or have entered into force during the reporting period. These included the Law of Protection of the Right of Components in KR-I No. 5 of 2015; the first reading by the Kurdistan Parliament of the draft law on Combating Human Trafficking in KR-I; and the repeal of Article 409 of the Penal Code, which reduces penalties for the killing of female and other family members on the basis of "honour" by their male relatives. These laws or proposed amendments are part of a series of concerted efforts over recent years to develop the rule of law in KR-I. While UNAMI/OHCHR highly commends these efforts, further compliance with international human rights law and standards is needed, and appropriate implementation mechanisms put in place.

UNAMI/OHCHR continues to be concerned with the KR-I Anti-Terrorism Law No.3 of 2006, which does not comply with international human rights law, namely the Convention Against Torture (CAT) and the ICCPR.²⁷ The definition of terrorism lacks sufficient clarity to fully conform with the principle of legality and to enable the criminalization of suspected terrorist acts, penalization of such acts, and fulfilment of the Kurdistan Region of Iraq's duty to protect individuals within its jurisdiction. The Law

²³ <<http://www.moj.gov.iq/view.2371/>> (accessed 24 May 2016).

²⁴ <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20006&LangID=E>> (accessed 25 May 2016).

²⁵ <<http://www.moj.gov.iq/view.2459/>>, 4 July 2016 (accessed 5 July 2016).

²⁶ <<http://www.moj.gov.iq/view.2462/>> (accessed 16 August 2016).

²⁷ Iraq acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment on 7 July 2011; Iraq ratified the International Covenant on Civil and Political Rights on 25 January 1971.

proposes mandatory death sentences for a number of crimes,²⁸ including those that do not amount to the most serious crimes under international law. The Law also includes a provision²⁹ that could be interpreted broadly so as to violate certain restrictions that may be imposed on the right to freedom of expression as provided for by the ICCPR. Finally, and of significant concern, the Law does not impose an absolute prohibition on the use of torture or ill-treatment, and considers that confession extracted under duress may be admissible in judicial proceedings if supported by other lawfully obtained evidence.³⁰ This provision also contradicts Article 37, paragraph 1 (c) of the Iraqi Constitution, which explicitly prohibits torture for any reason and prohibits reliance on evidence obtained through torture in judicial procedures. The KR-I Anti-Terrorism Law has been renewed every two years since its adoption and was due to expire at the end of July. UNAMI/OHCHR has raised these specific concerns with the Speaker and Deputy Speaker of the Parliament of the KR-I, recommending the repeal or amendment of the relevant provisions of the Law to bring it into line with Iraq's international legal obligations. The Law expired on 18 July 2016 and was not renewed. UNAMI/OHCHR welcomed the non-extension of the Law by the Shura Council that was tasked to look into the renewal of the law in the absence of sessions held by the Parliament.

Administration of Justice

Due process and fair trial guarantees

The Kurdistan Region authorities have granted access to UNAMI/OHCHR to all detention facilities and prisons in KR-I after appropriate notification to the relevant authorities. UNAMI/OHCHR has conducted regular monitoring visits to detention centres and prisons in KR-I and carried out unattended interviews with detainees or prisoners.

UNAMI/OHCHR observed breaches of the Criminal Procedure Code in KR-I, in particular in proceedings relating to terrorism charges, including long delays in producing detainees before a judge, restrictions on or denial of access to legal counsel, or prolonged periods of detention without trial.

In conducting its monitoring, 45 detainees complained to UNAMI/OHCHR that they had been denied access to lawyer, especially during the first 15 to 20 days of detention, which raises serious concerns about the interrogation of accused without the presence of a lawyer. UNAMI/OHCHR continued to receive claims from some detainees that they had been held in custody for periods beyond the period prescribed by the Criminal Procedure Code.³¹ Some detainees held on suspicion of involvement in terrorism crimes informed UNAMI/OHCHR that they had been held in pre-trial detention for over one year and in some cases sometimes up to four years, allegedly without charge or trial. UNAMI/OHCHR has conducted advocacy with the relevant authorities of the KR-I to have these cases processed as quickly as possible to ensure that those against whom there is no evidence of wrongdoing are released immediately, and where there is evidence of wrongdoing that those individuals are charged and brought before a court of law as expeditiously as possible.³²

²⁸ Article 2 of the Law

²⁹ Para. 4 of Article 4 of the Law

³⁰ Article 13 of the Law

³¹ Article 109 of the Criminal Procedure Code states that the period "of detention should not exceed one quarter of the maximum permissible sentence for the offence with which the arrested person is charged" and that any period beyond six months of detention must be approved by the criminal court.

³² For example, the Representative to the High Commissioner for Human Rights in Iraq/Director of Human Rights Office in UNAMI conveyed these concerns to the Minister for Interior in a letter dated 18 June 2015.

On 27 April 2016, the United Nations Working Group on Arbitrary Detention (WGAD) adopted an Opinion on the case of Mr. Ahmad Walid Younis noting that the deprivation of his liberty was arbitrary, requesting the Government of Iraq to immediately release him and provide him with full reparation.³³ Mr. Younis was arrested in 2000 and kept in detention without charge or trial for nearly ten years, including several months of solitary confinement. In August 2010, he was officially charged under the KR-I Anti-Terrorism Law with “sending orders and instructions from prison” to carry out terrorist attacks in Dohuk in 2009. In convicting and sentencing Mr. Younis, the court only took into account time served from when he was charged in 2010 – but refused to include the ten years he had been imprisoned without charge. On 19 September 2011, his sentence was upheld by the Court of Cassation. Mr. Younis was due for release in March 2015, but he was kept in detention for no apparent reason. While not informed about the reason for his continuing detention, he was brought before the court again to answer other charges. UNAMI/OHCHR monitored the Criminal Court proceedings held on 25 February 2016, when Mr. Younis was acquitted by the presiding judge. His case was then transferred to the Cassation Court in Erbil for review. As of the end of June 2016, Mr. Younis was still in detention and his case remained pending.

Torture and other ill-Treatment

During monitoring visits to prisons and places of detention in the KR-I conducted by UNAMI/OHCHR between January 2016 and June 2016, 70 detainees alleged that they were subjected to torture and/or other ill-treatment during the interrogation phase in order to force them to confess. Following confession, the coercion would generally cease. Allegations mostly concerned the Asayish authorities and Police Anti-crime units, which is the investigative authority for cases concerning general criminality. Detainees informed UNAMI/OHCHR that they are reluctant to report torture and/or other ill-treatment for fear of reprisals or difficulties in the legal procedures. There remains a general perception among some law enforcement officials in the KR-I and Iraq that confessions are the only evidence required. The criminal justice system heavily relies on confessions to justify charge, trial and conviction. From monitoring conducted by UNAMI/OHCHR, there is no uniform or, effective policy in place to deal with the allegations of torture and other ill-treatment raised by the defendants before the courts in the KR-I.

Detention Standards

According to data provided by the relevant authorities, the total number of detainees and prisoners held in KR-I at the end of June 2016 was 5,898. Of these, 2630 were detainees and 3,268 were convicts, including 3,023 men, 95 women and 150 juveniles.³⁴

During the reporting period, UNAMI/OHCHR conducted a mapping of conditions across all detention facilities and prisons with a focus on compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners, which “set(s) out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions”.³⁵

Detention facilities are managed by three different authorities in KR-I: the KR-I MoI for general criminality; the Asayish – KR-I security entity - for terrorism, organized crime and drug-related offences; and the KR-I MoLSA for juvenile and female detainees.

³³ Opinion No. 20/2016 adopted on 27 April 2016 the 75th session of the WGAD and published on 6 June 2016.

³⁴ UNAMI/OHCHR obtained the official figures from the MoI and MoSLA. The Asayish declined to reveal number of detainees, and UNAMI/OHCHR calculated the relevant number on the basis of data obtained through its visits to Asayish detention centres.

³⁵ Standard Minimum Rules for the Treatment of Prisoners, 13 May 1977 (revised on 17 December 2015), paragraph one of Preliminary Observations.

The findings from this mapping showed that overcrowding is a key concern in the Asayish facilities, particularly in Erbil Governorate, and in the Anti-Terrorism Directorate facility in Erbil. The escalation of the conflict in June 2014 saw a significant increase in the number of detainees being held in these facilities, with a significant number being held on suspicion of terrorism. Detainees also include a number of IDPs who have been arrested or otherwise detained by security forces.

Particularly crowded is the detention facility run by the Anti-Terrorism Directorate in Erbil, which prior to September 2015 was an Asayish facility.³⁶ During a visit in January 2016, UNAMI/OHCHR observed that between 80 and 90 detainees were cramped together in cells designed to hold between 30 and 40 detainees. The total number in the facility was between 500 and 600; UNAMI/OHCHR was informed by the manager of the facility that it was designed to hold between only 200-250 detainees. Each cell is approximately 5 x 12 square meters and each detainee approximately has between 0.7 and 0.8 square meter of floor space, leaving detainees little space to sleep.

UNAMI/OHCHR was also concerned with the lack or absence of beds in some facilities. Authorities in Erbil claim there is no need for beds either because detention is temporary, there is not enough space for beds, or there is not enough money in their budgets for buying beds. UNAMI/OHCHR understands that the KRG has not issued a specific instruction or policy stipulating that beds should be installed in detention centres. In the main facilities in **Dohuk** and **Sulaymaniyah Governorates**, there are bunk beds, although in some instances detainees are required to sleep on mattresses or blankets placed on the floor.

In Erbil, a new General Asayish facility (aka *Ghishti*) was opened in September 2015, which UNAMI/OHCHR inspected in May 2016. The facility is modern, for example there are disabled toilets, clean and well air-conditioned. There was no overcrowding. However, the facility has no beds as per the practice in other Asayish facilities.

In Erbil, a new KR-I Mol detention facility was opened on 9 June 2015. This is a large facility that can accommodate, according to the manager, up to 550 detainees. In the Dohuk Governorate, the main KR-I Mol detention facility in Zakho is large and generally well maintained. The facility held juveniles in a separate cell, which is the only cell that has beds – the other cells do not have beds because according to the manager it is a temporary facility. In **Sulaymaniyah Governorate**, only the women's cell in the KR-I Mol detention facility had beds. However, improvements have been made through general maintenance: new air conditioning units have been installed, the cells have been painted, and a large water tank has been installed in the corridor.

However, the conditions in many smaller KR-I Mol detention centers remained poor. In Soran, in Erbil Governorate, for example, UNAMI/OHCHR observed that the cells were not clean and there were no beds except in the women's cell. In the KR-I Mol detention facility in Chamchamel, in **Sulaymaniyah Governorate**, the conditions observed by UNAMI/OHCHR overall were sub-standard: overcrowded and no beds were available, poor hygiene, and poor quality food. Detainees were not provided with any access to an outdoor space. Three juveniles were also held in a separate space adjacent to one of the rooms. UNAMI/OHCHR was informed by the manager that a new facility would be completed and operational by the end of June 2016, and, therefore, there was no investment to refurbish the current detention centre. In the KR-I Mol detention facility in Kalar, in Sulaymaniyah Governorate, UNAMI/OHCHR observed overcrowding; although there were some bunk beds, they were not sufficient for the number of detainees. The KR-I Mol detention managers

³⁶ Formerly this was Asayish Ghishti but was taken over by the Anti-Terrorism Directorate in September 2015.

almost unanimously stressed the lack of budgetary funds as the reason for the lack of regular maintenance of the facilities, but also the poor quality of food provided to detainees.

In the Women and Juvenile Reformatory in Dohuk, UNAMI/OHCHR found that a storage room was being used as a cell for detainees due to lack of space. The overall conditions remained poor: UNAMI/OHCHR observed that the toilets were dirty, the mattresses were old, and there was insufficient light in the cells. The manager of the facility told UNAMI/OHCHR that following a formal request, KR-I MoLSA had been allocated a budget for renovation and improvements of the facility. In Erbil, UNAMI/OHCHR observed overcrowding at the Women's and Juvenile Reformatory, which has approximately 2.9 square meters per detainee. In the Women's and Juvenile Reformatory in Sulaymaniyah, previous overcrowding was reduced and the number of detainees in the cells was approximately equivalent to the intended capacity, although each detainee still has 2.5 square meter of living space. In April 2015, KR-I MoLSA closed the isolation cells in the juvenile section of the Women's and Juvenile Reformatory in Sulaymaniyah following an intervention by UNAMI/OHCHR.

Juveniles in Adult Detention

During visits to Asayish-run facilities, UNAMI/OHCHR came across several juveniles held with adults under a category the authorities referred to as "prisoners of war".³⁷ UNAMI/OHCHR repeatedly raised its concerns with the managers of the facilities, calling for the juveniles to be immediately transferred to the juvenile reformatory as the practice of holding them alongside adults in detention is contrary to international human rights law, in particular the Convention on the Rights of the Child,³⁸ and ICCPR.³⁹ UNAMI/OHCHR also questioned the legal basis of classifying detainees as "prisoners of war" under principles of International Humanitarian Law applicable in non-international armed conflicts. At time of writing this report, UNAMI/OHCHR is engaged in advocacy with the KR-I authorities on these issues.

Human Rights Training of the Asayish and Police

UNAMI/OHCHR regularly provided human rights training courses to KR-I Police and Asayish in coordination with the relevant authorities to strengthen knowledge and application of international human rights standards. Between 13 and 17 March 2016, UNAMI/OHCHR conducted a Training-of-Trainers (ToT) for 26 participants from a range of KR-I institutions, including the police and Asayish. United Nation's trainers and experts facilitated the five-day intensive course, including on how to prepare, present and evaluate training courses on human rights.

³⁷ The Representative for the High Commissioner for Human Rights in Iraq/Director of the Human Rights Office in UNAMI wrote to the Minister for the Interior on 8 November 2015, drawing his attention to the fact that "prisoner of war" status is not applicable in the context of non-international armed conflict and that all persons who have unlawfully engaged in hostilities and who are being currently detained by KRG should be charged promptly according to the law and are informed of the charges and that due process and fair trial are ensured.

³⁸ Article 37 (c) on the Convention of the Rights of Children states: "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances";

³⁹ Article 10-2 (b) of ICCPR states: "Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication".

Death Penalty in KR-I

The KR-I has established an unofficial moratorium on death penalty since 2008 with an instruction from the President of the KR-I, Masoud Barzani, that death sentence warrants are not to be processed. UNAMI/OHCHR continues to conduct advocacy on the issue with the KR-I authorities that there will be no recurrence of the exception to the Presidential instruction as took place in August 2015 when three convicts jointly sentenced to death were executed.

5. Human rights of women

Thousands of women, particularly women from ethnic and religious minority communities and women professional who in ISIL's views do not conform to its *takfiri* doctrines, have been subjected to rape, sexual enslavement, murder, and other forms of physical and sexual violence.

Women and children continued to be subjected to crimes of violence, including so-called "honour crimes", and sexual and gender based violence – and in Iraq there are no effective legal or policy frameworks that prevent such violence, protect the survivors of such violence, or ensure the accountability of perpetrators. Combating crimes of violence committed against women and children remain problematic owing to the fact that Article 409 of the Iraqi Criminal Code no. 111 of 1969 permits honour as mitigation for crimes of violence committed against family members, and there is reluctance among law enforcement agencies to effectively, promptly, thoroughly, independently and impartially investigate such crimes or to hold the perpetrators accountable. The 'Family Protection Law' has remained stalled before the Council of Representative for over four years – and many of its provisions require amendment to ensure its compliance with international standards. Outside of the Kurdistan Region of Iraq there are no government-run shelters or officially authorised shelters for women who are at risk or have been victims of sexual and gender based violence. The Government's policy frameworks for combating sexual and gender based violence, and the national strategy to combat conflict related sexual violence, remain unimplemented.

Women also face systemic and widespread discrimination in accessing basic services, including medical services, education etc., and remain largely disempowered and unrepresented, particularly in senior public service positions, government posts and in government and political processes. During the period covered by this report, there was only one woman serving as a Minister in the Government of Iraq.

5.1 'Honour' killings

A number of areas of Iraq are characterized by both religious conservatism and widespread adherence to tribal customs and mores, both of which have given rise to attitudes that can be detrimental to the enjoyment of human rights by women and girls. One particularly egregious manifestation of this is the practice of so-called 'honour killings', where a family member kills a relative (often female) for having apparently brought shame upon the family's reputation by her actions.

During the reporting period, UNAMI/OHCHR documented several cases of alleged so-called 'honour killings' or 'shame washing' in Thi-Qar, Basra and Muthana. For example, on the morning of 16 January, the body of a girl, aged approximately 15 years old, was found in the Ashar area of Basra City. The body had been decapitated, wrapped in a hijab and thrown in a rubbish bin. Information received by UNAMI/OHCHR indicated that the victim was a displaced person and that her murder had been for reasons of 'honour'.

On 20 March, three people were killed, including one woman, in the district of Rumaitha, north of **Muthana Governorate**. The alleged perpetrator then turned himself in to police. According to information received by UNAMI/OHCHR, the man killed his brother's ex-wife, her new husband and her husband's cousin to punish the women for divorcing her first husband.

On 26 May, a male and a female (both 20 years old) were the victims of an alleged 'honour killing' in Chibayish district in **Thi-Qar Governorate**. The alleged perpetrator, who was brother of the female victim, apparently committed the killings when he discovered that his sister was planning to elope with her boyfriend.

On 22 June, another young man killed his sister over an issue of honour in Chibayish district in **Thi-Qar Governorate**. According to information received, six years previously the woman had fled with her lover (who was her cousin) to an unknown location where they married and had children. A few weeks before the killing, her husband had asked to return to the area and through a tribal meeting the issue was settled and compensation was to have been paid to the family of the woman. The couple returned home, but one of the victim's brothers killed her when her husband, a PMU fighter, left home to return to the front.

On 14 July, the body of a woman was discovered in a pit in al-Zubair district, west of Basra City in **Basra Governorate**. Local authorities informed UNAMI/OHCHR that the bodies of two other women had been found in the same area in the previous weeks and that they all showed signs of having been stabbed and mutilated. From the nature of the injuries, authorities suspect that all three were cases of 'honour killings'.

5.2 Women's Shelters

The need for women's shelters outside of the Kurdistan Region of Iraq has been highlighted by UNAMI/OHCHR for some time. Women who are the victim of domestic violence have nowhere to take refuge while seeking legal recourse. In the absence of a women's shelter, it is not uncommon for judges to order that girls and women be sent to prison for their own protection until their case is resolved, or police officers instruct them to return to their families (where they are at considerable risk) or hold them in police lock-ups. Other women end up becoming homeless on the streets.

For instance, officers at Basra's Family Protection Unit (FPU) told UNAMI/OHCHR that the lack of a women's shelter in Basra was one of the greatest challenges they face in their work and that the lack of suitable accommodation can result in women being sent to prison for protection or being left homeless on the streets. In a positive development, the local government of Basra announced its commitment to supply a plot of land for the construction of a shelter to be run by the Ministry of Women's Affairs. UNAMI/OHCHR continues to meet with relevant partners such as the Ministry of Labour and Social Affairs, Basra Provincial Council, UNICEF and UNDP to press for the construction of the shelter.

5.3 Kurdistan Region of Iraq

Legal and Policy Framework

The reliance on 'honour' in mitigation of charges brought against males who commit acts of murder and violence against women or family members has ceased in the KR-I owing to the repeal of Article 409 of the Criminal Code in April 2015.⁴⁰

⁴⁰ Article 409 of the Iraqi Penal Code no. 111 of 1969 states: Any person who surprises his wife in the act of adultery or finds his girlfriend in bed with her lover and kills them immediately or one of them or assaults one

UNAMI/OHCHR commended this important legislative reform which was accompanied shortly thereafter by the repeal of Article 57 of the Personal Status Law No.188 of 1959 adopted on 20 May 2015 by the KR-I Parliament, granting equal rights to both male and female parents in decisions related to the custody and upbringing of children. This amendment was an important step in bringing the Personal Status Law in the KR-I more into compliance with Article 9 of the Convention on the Rights of the Child⁴¹, which states that “States parties shall ensure that a child shall not be separated from his or her parents against their will, except when (...) such separation is necessary for the best interests of the child” (paragraph 1).

UNAMI/OHCHR in coordination with civil society actors and relevant duty bearers have provided comments on a draft amendment, proposed by the KR-I Mol and civil society organizations to strengthen the Law for Combatting Domestic Violence in KR-I No.8 of 2011 (hereafter the DV Law). A draft amendment was submitted to the KR-I Parliament in September 2015 for review but stalled amidst the current political crisis that deadlocked the KR-I Parliament. The draft amendment would strengthen the current law by including a robust definition of acts of domestic violence, and increasing the penalties and punishments for these crimes. However, there is room for improvement to ensure that the draft amendment is strengthened in accordance with international human rights law, in particular in relation to penalties and to the operation of reconciliation committees that tend to see their role as encouraging women to return to situations within their families where they may be at significant risk. The second reading of the draft law on Combating Human Trafficking in KR-I has not been scheduled due to the impasse in the KR-I Parliament.⁴²

Violence against Women

Violence against women (VAW), including domestic violence (DV), remains of concern throughout the KR_I due to traditional practices and attitudes concerning the role of women within the family and in society. Women and girls are subjected to many types of violence and discrimination including physical abuse, honour-based killings, self-immolation, female-genital mutilation (FGM), sexual violence and harassment, as well as inequality and social exclusion. Furthermore, the displacement of thousands of Iraqis has exacerbated already high rates of domestic violence that existed before the conflict. Child marriage has been one of the most common forms of gender-based violence among those displaced, and adolescent girls are particularly vulnerable to early forced marriage as most are no longer at school and families often regard marriage as a way of protecting their daughters in IDP settlements.⁴³

Over the past three years, between 2013 and 2015, the number of cases of VAW has increased - this is largely attributed to the growing confidence of the public, in particular women, to report VAW to the authorities.⁴⁴ In 2013, 5,307 cases were reported; in 2014, 7,193 cases were reported; and, in 2015 for which the latest annual figures are available, 8,002 cases were reported. Data collected by

of them so that he or she dies or is left permanently disabled is punishable by a period of detention not exceeding 3 years. It is not permissible to exercise the right of legal defence against any person who uses this excuse nor do the rules of aggravating circumstance apply against him.

⁴¹ Iraq acceded to the Convention on the Rights of the Child on 15 June 1994.

⁴² The first reading took place in April 2015.

⁴³ Key findings from the 2014 Interagency Child Protection Assessment Erbil, Sulaymaniyah and Duhok indicate that child marriage was one of the most common forms of GBV reported by key informants (24.06 per cent) conducted in July and August 2014.

⁴⁴ Government officials have regarded the increase in the complaints as a positive trend that women are becoming more aware of their rights and are willing to report or file a complaint against the perpetrators of violence regardless of whether the perpetrator is the father, brother, husband or cousin.

the Offices of Combating VAW are published by the Directorate of Combating VAW (DCVAW).⁴⁵ The classification of VAW cases used by DCVAW, however, is not sufficiently delineated to understand exactly which types of violence are included under the categories that are published.⁴⁶ Also, DCVAW does not publish data on the number of arrests and prosecutions, for the cases of VAW reported. The bulk of the cases reported come under the category of physical and verbal abuse: in 2013, there were 4,732 cases; in 2014, 6,673 cases; and, in 2015, 7,436 cases. Unfortunately, in publishing this data DCVAW does not disaggregate between physical and verbal abuse.

Cases of sexual violence remain generally under-reported due to fear, shame and stigma. Data published by DCVAW showed that in 2013, 138 cases of sexual violence were reported; in 2014, 144; and, in 2015, 124.

It is difficult to obtain accurate statistics on the number of honour-killings or of 'honour-related' violence. Data published by DCVAW indicates the number of women killed in KR-I, but the motivations for these killings, such as 'honour', inheritance, or family disputes are not indicated. In 2013, 55 women were killed; in 2014, there were 35; and, in 2015, there were 55. The KR-I authorities actively investigate the murders of women,⁴⁷ but often the challenge is the family preference for 'tribal' justice to resolve the issue, as highlighted by the outcome of an honour-killing case of a child bride in Dohuk in 2014 who was shot and killed by her husband. At the end of the procedure, in 2015, the husband was given a reduced sentence of ten years imprisonment because the victim's family had accepted USD 40,000 in compensation.

Immolation (including self-immolation) has become an increasingly disturbing trend in KR-I. The CEDAW Committee expressed concern at the "suspiciously high incidence of cases of self-immolation" in KR-I.⁴⁸ According to data published by DCVAW, in 2013 there were 236 cases of burning; in 2014, 197 cases; and in 2015, there were 198 cases.⁴⁹ The reasons for self-immolation are complex, but there is a convergence among organizations working on the issue, including from conducting research with burn survivors, that suggests that in certain cases women may be forced or coerced into committing suicide, or it is a form of honour-killing. In some cases women took their own lives through self-immolation as a way to escape a miserable life, years of domestic abuses, or shame. The majority of cases of self-immolation are reported as accidents.⁵⁰ UNAMI/OHCHR has

⁴⁵ KR-I MoI website for the DCVAW <<http://bgtakrg.org/index.php>>

⁴⁶ The cases of VAW and DV are reported to the offices of CVAW from a range of sources including the police, NGOs, public prosecutor, IBHR and those providing para-legal services before the courts, according to the DCVAW in Erbil.

⁴⁷ In January 2015, a ministerial order from MoI provided the Directorate of Combating VAW with the exclusive power to investigate murders of women.

⁴⁸ CEDAW Committee Concluding observations on the combined fourth to sixth periodic reports of Iraq (CEDAW/C/IRQ/CO/4-6), dated 28 February 2014, Stereotypes and harmful practices, para. 25, d

⁴⁹ The figures included in the categories of burning and attempted burning are for those victims who have been admitted to hospitals as usually the police officers in the hospitals report cases to the offices of CVAW.

⁵⁰ For example, see Improving Care and Reducing Stigma for Women in Iraq Who Survive Gender-Based Violence and Self-Immolation, PROJECT FACT SHEET, 2014. (According to research with burn survivors in Sulaymaniyah and Erbil, reasons behind self-immolation point to a need for psychological support for survivors. These reasons include a) forced marriage, b) divorce, b) family and marital dispute, and c) emotional problems. Anecdotal evidence points to families having a role in women who are burned. In some cases, women are urged to burn themselves; in others burning is suspected to be a form of honour killing: *The Lost Women of Iraq: Family-based violence during armed conflict*, Minority Rights Group International November 2015; Research undertaken by two Kurdish activists, Huda Zangana and Ari Rafeeq, which was broadcast in a

reiterated to the KR-I authorities that all such cases must be effectively, promptly, thoroughly, independently and impartially investigated to ensure that no crime was committed in connection with them. UNAMI/OHCHR has also advocated with the KR-I authorities to establish policies and programmes to assist women with viable alternatives in such situations.

In 2016, three women were arrested and charged for FGM in the first such prosecutions since the enactment of the DV Law. On 10 March 2016, the midwife who carried out a FGM was arrested and charged; on 4 May, a woman who acted as intermediary between another woman and a midwife to assist in organising FGM on the woman's daughter was arrested and charged; and on 15 May 2016, the mother of two daughters on whom FGM had been performed was arrested and charged. All three women have been released on bail pending the trial. The date for the trial will be set following the completion of the medical report for the examination of girls concerned to determine the degree of physical harm caused.

Shelters

As of June 2016, a by-law drafted by KR-I MoLSA that defines the role of relevant government ministries in relation to women's shelters was still pending approval by the KR-I Council of Ministers. The by-law is supposed to supplement the implementation of the KR-I Shelter for Women under Threat Instruction No. 2 of 2014, which set out the minimum standards for the establishment and management of all women's shelters in the KR-I.

The financial crisis in KR-I has impacted on the allocation of resources to expand and improve shelters. In 2015, the construction of a new shelter in Dohuk was completed, but there was a shortage of funds to furnish it (it nevertheless operates). The Women's Shelter in Erbil appears to be well managed and is in a good condition; however, it lacks ongoing vocational training opportunities for the women who are resident there. The shelter in Sulaymaniyah was unable to provide basic items for personal hygiene and food for babies, but due to assistance by NGOs the shelter has been able to improve the overall conditions.

One of the main challenges facing women when they leave the shelters is being able to return safely to their family or the society without reprisals against them. In the KR-I a judge has to authorize the "release" of a woman from a shelter, but will usually only do so after receiving some guarantee or pledge from a family member or relative that the woman will be safe. After a woman leaves the shelter, DCVAW monitors her safety; however, there are no programmes in place to support women who are unwilling or unable to return to their families to transition from the shelters so as to be able to lead an independent and self-supporting existence.

6. Rights of Minorities

6.1 Ethnic and religious communities

Minority ethnic and religious communities faced significant challenges in Iraq, not least of which were threats to their security, and discrimination that detrimentally impacted the full enjoyment of their rights.

television documentary, "No Mirrors", 2010; Research Paper, "Self-Burning in Iraqi Kurdistan proportion and risk factors in a burns unit", International Psychiatry Volume 9 Number 3 August 2012.

ISIL has particularly targeted ethnic and religious communities pursuant to their *takfiri* doctrines as part of a systematic and widespread campaign aimed at the permanent suppression, expulsion or destruction of these communities that may constitute war crimes, crimes against humanity and genocide. Many of these communities remain displaced – and ensuring their return to their places of origin, in full dignity and security and respect for their rights according to international humanitarian principles, and restoring and rebuilding these communities, will be essential to restoring trust between communities and thereby supporting a truly inclusive and enduring national reconciliation in Iraq.

UNAMI/OHCHR in partnership with other stakeholders, engaged in efforts to have appropriate legislation passed by the Council of Representatives that will ensure the respect and protection of the rights of minority ethnic and religious communities and implemented a range of activities aimed at restoring trust within and between communities.

6.2 Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) community

Members of the LGBTI community of Iraq also continued to be subjected to widespread societal discrimination, and individuals were subjected to threats, intimidation, acts of violence, at times killings, sometimes from their own family members but often from members of armed groups and militias, based on perceptions of sexual orientation or gender identity.

UNAMI/OHCHR has continued monitoring the situation of LGBTI community, as a particularly vulnerable group in Iraq. In this connection, UNAMI/OHCHR met with individuals who had been victims of harassment and/or violence because of their sexual orientation as well as civil society activists. Most recently, (and just outside the period covered by this report) on July 10 UNAMI/OHCHR was informed that a young man had been abducted and killed, allegedly on the basis of his sexual orientation. The man was kidnapped on Saadoun Street, near the International Palestine Hotel, while leaving his workplace. Witnesses confirmed that he was abducted by individuals in plain clothes, but sources alleged that the abductors were known to be members of an armed group. The victim's body was found in al Sadr City by the ISF. UNAMI/OHCHR was also informed that same armed groups have started a 'campaign against homosexuals' in Baghdad and that at least three more LGBTI people have allegedly disappeared as a result. UNAMI/OHCHR is trying to collect more information on this allegation. UNAMI/OHCHR has also started collecting information on LGBTI-related cases with a view to establishing a dedicated database.

6.3 Ethnic and religious communities in the Kurdistan Region of Iraq

KR-I is already home to a number of communities such as the Christian, Yazidi, Shabak, Assyrian, Kaka'i and Turkomen. However, the influx of IDPs has increased their numbers, and also the presence of Sunni Arabs who have fled from Anbar, Ninewa, and other governorates to seek safety from the conflict.

The importance of education for children and youth as part of post conflict reconstruction is critical for UNAMI/OHCHR. In May 2016, the Ministry of Education agreed with a UNAMI/OHCHR proposal to mainstream key human rights principles of equality and non-discrimination across the education system in the KR-I.

Despite being a positive development in ensuring protection of ethnic and religious groups through the adoption of the Law of protection of the rights of the components of the Kurdistan Region of Iraq No. 5 of 2015, UNAMI/OHCHR continues to express concerns over lack of criminalization provisions in the Law for acts such as inciting or committing hate crimes against members of ethnic

and religious communities, or a mechanism, or body that would ensure implementation of the rights specifically protected by the Law.

Allegations of misappropriation or encroachment by Kurdish individuals of agriculture lands belonging to Assyrians in the Dohuk Governorate have been reported to UNAMI/OHCHR since 2012, although some allegations go back to 1991. UNAMI/OHCHR noted that in a number of cases, Supreme Court verdicts ordering the removal of illegal use of lands have not been implemented. On 26 October 2015, the Committee on Economic, Social and Cultural Rights expressed concern about the “persistence of land disputes between the Assyrians and [KRG], and that lands belonging to Assyrians were frequently expropriated for investment purposes.”⁵¹ The Committee recommended that the State party “take measures to resolve land disputes” and “to ensure that judicial decisions ordering the return of lands to Assyrians are enforced”.⁵²

7. Rights of Persons with Disabilities

People with disabilities remain particularly vulnerable in Iraq and face significant challenges, including social, economic, and political discrimination that detrimentally impacts the full enjoyment of their rights. Despite ratifying the Convention on the Rights of Persons with Disabilities in 2013, the Government has failed to implement appropriate measures as required by the Convention to ensure the respect and protection of the rights of persons with disabilities and to address discrimination and other obstacles that they may face. The Government passed a law in 2013 under which a Commission to promote the respect and protection of the rights of persons with disabilities was established. However, the Commission established by the Law operates under the fiscal and administrative authority of the MoLSA and does not have the independence required by article 33 of the Convention on the Rights of Persons with Disabilities. There are also issues concerning the lack of representation on the Commission by people with disabilities.

UNAMI/OHCHR has continued its engagement on the rights of persons with disabilities, consulting with disability-focused organizations and the representative of the Government-established High Commission for People with Disabilities; it also wrote to MoLSA repeatedly to raise a number of issues related to Iraq’s compliance with the Convention on the Rights of Persons with Disabilities.

In terms of capacity building, UNAMI/OHCHR met with disability-focused civil society organizations to discuss the planning of a training workshop on drafting a parallel report under the Convention on the Rights of Persons with Disabilities.

On June 30, UNAMI/OHCHR was informed that a decision had been made by the MoLSA to recall 3 of its staff, who had been assigned to the PWD Commission to help organize its administrative affairs during its foundation. These were the Chief of Legal Affairs, the Chief of Human Resources, and the Manager of the Head Office. The Commission informed UNAMI/OHCHR that in its view the move was an attempt by the MoLSA to weaken or to interfere in the work of the Commission, which is supposed to be an independent body, in keeping with Law no. 38 of 2013.

⁵¹ Committee on Economic, Social and Cultural Rights, Concluding Observations on the fourth periodic report of Iraq (E/C.12/IRQ/CO/4) 26 October 2015, paragraph 13.

⁵² Committee on Economic, Social and Cultural Rights, Concluding Observations on the fourth periodic report of Iraq (E/C.12/IRQ/CO/4) 26 October 2015, paragraph 14.

7.1 Kurdistan Region of Iraq

On 19 April 2016, KR-I MoLSA issued instructions in accordance with the Law on the Rights and Privileges of Persons with Disabilities and Those with Special Needs No.22 of 2011 (hereafter the Law on the Rights of Persons with Disabilities) to provide guidance on who is entitled to receive benefits based on their disability. The instructions also set out new percentages for determining the allowances received, although these are less than those set out in the Law on the Rights of Persons with Disabilities. In May 2016, the Labour and Social Affairs Committee in the Kurdistan Parliament told UNAMI/OHCHR that they would consider the amendment to strengthen the Law on the Rights of Persons with Disabilities when preparing their report for the legal committee for the second reading. An amendment proposed by a group of NGOs had its first reading in the KR-I Parliament on 23 December 2014; however, due to the impasse in the KR-I Parliament, no further reading of the amendment has been scheduled.

8. Rights to Freedom of Expression and Opinion

8.1 Freedom of expression

Freedom of expression faced significant challenges in Iraq. Journalists and media professionals continued to suffer threats, intimidation, abduction and killings while carrying out their professional duties. ISIL directly targeted for abduction and killing media professionals and others it believed were transmitting, receiving or expressing beliefs or opinions not in accordance with their *takfiri* doctrines.

In other areas of Iraq, UNAMI/OHCHR received reports that media professionals were subjected to threats from security forces, and other armed groups and unidentified perpetrators in carrying out their professional duties, and in some instances, there were reports of journalists being physically abused, abducted, and on some occasions killed, by armed groups and unidentified perpetrators. Some media professionals and bloggers were threatened with prosecution under Iraq's criminal libel laws, which some powerbrokers manipulated to silence criticism or prevent public scrutiny of their activities, particularly in relation to allegations of corruption.

During the reporting period, at least eight journalists and media workers were killed and 12 wounded including in Baghdad, Diyala, Anbar and Ninewa governorates. On 21 May 2016, a journalist in A'ahad Satellite Channel died in Baghdad⁵³ after sustaining severe injuries following an explosion in one of Baghdad's neighbourhoods on 10 May 2016. On 12 January 2016, a cameraman and a correspondent were killed in Diyala Governorate⁵⁴. The two were working for al-Sharqiya Satellite Channel and were on duty when they were stopped and shot dead by unknown armed men while on their way back from work in Muqadaya district.

⁵³ Half yearly report of the Iraqi Observatory for Press Freedoms IOPF, a local press freedoms NGO based in Baghdad <<http://iopf.net/2016/07/10/%D9%85%D9%82%D8%AA%D9%84-%D8%B3%D8%A8%D8%B9%D8%A9-%D8%B5%D8%AD%D9%81%D9%8A%D9%8A%D9%86-%D9%88%D8%AC%D8%B1%D8%AD-%D8%A7%D9%84%D8%B9%D8%B4%D8%B1%D8%A7%D8%AA-%D9%88%D9%85%D9%84%D8%A7%D8%AD%D9%82%D8%A7/D>>, (accessed on 20 July 2016).

⁵⁴ UNESCO: <<http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/countries/iraq/>> (accessed on 20 July 2016). See the website of the Committee to Protect Journalist CPJ <<https://cpj.org/killed/mideast/iraq/>> (accessed on 20 July 2016).

On 9 February, a journalist for the al-Sharqiya satellite channel stated that he was beaten and verbally abused by a member of the security detail (police) protecting the Basra government building. The assault occurred during the coverage of a demonstration that was organized by teachers contracted by Basra governorate who were asking for unpaid salaries. According to the victim, he was attacked by the guard when he was asking why two protesters had been arrested. On 20 February, a journalist from al-Hurra Iraq satellite channel was allegedly verbally abused and threatened by members of the al-Rafidain Operation Security Forces while reporting on a salt factory in Muthana. According to information received, the reporter had his camera and other equipment confiscated for several hours and footage he had shot was erased.

Additionally, journalists accompanying ISF in their campaign to liberate Fallujah district from ISIL, were also targeted and some journalists were killed or wounded. In one incident, the correspondent of Bilady Satellite Channel was wounded on 18 June 2016,⁵⁵ when a mortar shell landed close to him.

Some media outlets and TV stations were banned from working in Iraq during the reporting period. For instance, al-Baghdadiya Satellite Channel was banned from operating in Iraq on 16 March 2016 by a decision of the Iraqi authorities to close its main office in Baghdad⁵⁶. On 15 April 2016, the Egyptian authorities stopped the broadcasting of the mentioned channel that was operating from Cairo following the decision of the Iraqi Communication and Media Commission to close the offices of the channel in Baghdad. On 27 May 2016, ISIL slaughtered a journalist in Ninewa Governorate following ten months of detention⁵⁷.

8.2 Freedom of peaceful assembly

Public demonstrations took place across many areas of Iraq, particularly in Baghdad and the south-central and southern areas of the country. These demonstrations often focused on lack of Government reforms, ending corruption, lack of security or lack of access to basic services. Generally, the Government respected the right to participate in public demonstrations, with many being conducted peacefully. Despite this, respect for the right of freedom of peaceful assembly continued to be problematic as UNAMI received sporadic reports of excessive use of force by security forces to break up or end demonstrations, and reports of individuals participating in public demonstration being beaten, abused, and on occasion detained by security forces despite such demonstrations and assemblies being peaceful.

On 30 April, demonstrators forced their way into the Green Zone in Baghdad, ransacking the Parliament and public buildings in the vicinity. Approximately three weeks later on 20 May, when

⁵⁵ Half yearly report of the Iraqi Observatory for Press Freedoms IOPF, a local press freedoms NGO based in Baghdad: <http://iopf.net/2016/07/10/%D9%85%D9%82%D8%AA%D9%84-%D8%B3%D8%A8%D8%B9%D8%A9-%D8%B5%D8%AD%D9%81%D9%8A%D9%8A%D9%86-%D9%88%D8%AC%D8%B1%D8%AD-%D8%A7%D9%84%D8%B9%D8%B4%D8%B1%D8%A7%D8%AA-%D9%88%D9%85%D9%84%D8%A7%D8%AD%D9%82%D8%A7/>,> (accessed on 20 July 2016).

⁵⁶ CPJ <<https://cpj.org/2016/03/authorities-close-al-baghdadia-tv-in-iraq-force-st.php>> (accessed on 20 July 2016)

⁵⁷ Half yearly report of the Iraqi Observatory for Press Freedoms IOPF, a local press freedoms NGO based in Baghdad <http://iopf.net/2016/07/10/%D9%85%D9%82%D8%AA%D9%84-%D8%B3%D8%A8%D8%B9%D8%A9-%D8%B5%D8%AD%D9%81%D9%8A%D9%8A%D9%86-%D9%88%D8%AC%D8%B1%D8%AD-%D8%A7%D9%84%D8%B9%D8%B4%D8%B1%D8%A7%D8%AA-%D9%88%D9%85%D9%84%D8%A7%D8%AD%D9%82%D8%A7/>> (accessed on 20 July 2016) . See the website of the Iraqi Journalists Syndicate: <http://iraqijis.org/read_news.php?id=2893> (accessed on 20 July 2016).

demonstrators approached the Green Zone complaining of lack of security in the capital and demanding accountability, government forces opened fire on the demonstrators with tear-gas, smoke bombs and by some accounts, live rounds, killing four protesters and wounding a number of others. There were also reports that individuals perceived to have significant leadership roles in organising such demonstrations were targeted for arrest or detention subsequent to the demonstrations, or were reportedly threatened, intimidated, physically abused and on occasion abducted or killed by unknown perpetrators.

UNAMI/OHCHR recorded several cases of violation of the right to freedom of association and associated politically motivated violence in the south of Iraq during the reporting period, the latter coinciding with an intensification of the political crisis in Baghdad. On 20 January, a leader of the AAH political party (previously affiliated with the Sadrists) was targeted by an IED in the Refai district north of Thi-Qar. According to information received, the IED resulted in material damages to the house of the leader and to a vehicle parked inside the house. On 4 May, an IED exploded in front of the house in Basra of a member of parliament from the al-Ahrar bloc (Sadrists). The explosion resulted in material damages to the front of the house but no casualties were reported. On 21 May, the Cultural Center of al-Da'awa party in Basra was attacked with a grenade by unknown gunmen on a motorcycle. No casualties were reported to have resulted from the attack, only material damage to the center itself.

On 12 February 2016, a group of men wearing balaclavas and carrying clubs (and allegedly knives) attacked demonstrators in Nassiriya who were protesting in front of the al-Da'awa Party's offices. Video footage of the incident received by UNAMI/OHCHR showed that policemen were present however did very little to stop the masked men from attacking the protesters.

During the reporting period a bill on freedom of assembly, freedom of information, and freedom of expression was debated before the Council of Representatives but was referred to a number of Parliamentary committees for further review. Many of the bill's provisions fell short of international human rights norms and standards and freedom of assembly guaranteed by the Constitution of Iraq. Of particular concern were provisions that limit the time and place and kind of public assemblies, and the requirement to obtain official permission before a public assembly can be held. UNAMI/OHCHR has been working in partnership with civil society organisations and members of the Council of Representatives to try to have the bill amended to ensure it complies with international human rights norms and standards. The Bill has faced criticism from members of the CoR, Civil Society Organizations (CSOs), Iraqi High Commission for Human Rights (IHCHR), sections of the media, and the international community.

8.3 Kurdistan Region of Iraq

During the end of 2015 and beginning of 2016 there were a number of reports of severe intimidation of a number of media professionals and unnecessary limitations to the operation of media channels in the KR-I. In October 2015, public demonstrations erupted across the Sulaymaniyah Governorate to protest against the cost and conditions of living, amid heightened tensions between political parties over the extension of the Presidency, after the President Massoud Barzani's term ended in August 2015. During this period, a number of journalists and media workers were obstructed in undertaking their work and some were subjected to physical attacks, often by unknown perpetrators.

UNAMI/OHCHR continues to advocate for the unrestricted operation of media, irrespective of political party affiliation.⁵⁸ UNAMI/OHCHR notes that restrictions were imposed without consideration for the rule of law and applicable international and national legal framework. The Journalism Law provides for the protection of journalists and media workers in KR-I against interference in their work.⁵⁹

9. National Human Rights Institution

The four-year term of the first 14 Member Board of Commissioners (BoC) of the Iraqi High Commission for Human Rights (IHCHR) expired on 14 May 2016. Prior to this, the Speaker of the Council of Representatives issued Parliamentary Order No. 12 on 8 February 2016, appointing a 14 member Committee of Experts (CoE) tasked with nominating the new Board of Commissioners for the IHCHR, as required by Law no. 53 of 2008 which governs the operations of the IHCHR.

Political squabbles between Sunni and Shi'a blocs in the CoR concerning the make-up of the CoE hindered the convocation of the CoE for several months. In early May, a political agreement was brokered by the Speaker of COR and the Chair of the Parliamentary Human Rights Committee/Chair of the CoE with the blocs on the composition of the CoE: nine COR members (nine Sunni, four Shi'a, and one minority community), one representative of the Council of Ministers, one representative of the Judiciary, two civil society representatives, and the Chief Human Rights Officer of UNAMI.

Despite difficulties in convoking the CoE, the application process for prospective candidates opened on 10 April and ended on 30 April. Applications were received electronically through the COR website. The period of applications was re-opened from 17-26 May, after a number of potential candidates complained that technical problems with the COR website had prevented them lodging their applications during the initial period.

In total 397 applications were received by the Secretariat of the CoE. The CoE has agreed the framework by which the applications will be processed, including a point system based assessment of each candidate's written application/CV based on the key criteria of the post of Commissioner; and a process for interviewing and scoring the top fifty candidates from the first round of assessment. It is envisaged that the process of nominating the Commissioners will be completed by the end of September 2016, with the names tabled for Parliament's consideration and endorsement at this time.

Of the 14 Commissioners to be nominated (11 full time Commissioners and three stand-by/reserve Commissioners), one third of the posts are reserved for women, and one post is reserved for a representative of the minority ethnic/religious communities.

UNAMI/OHCHR is providing technical support and guidance to the COR, the Speaker and the CoE and its secretariat on the process of nomination and appointment of the BoC. In partnership with UNOPS, UNAMI/OHCHR conducted a specialized training of the CoE and Secretariat on best practices

⁵⁸ Following a period of advocacy, UNAMI addressed a letter, on 24 January 2016, to the Head of the Department for Foreign Relations expressing concern at the recent closures and arrests, and attacks on journalists. UNAMI was officially informed on 25 February 2016 by the Head of the Department of Foreign Relations that the two channels had resumed operation in both Erbil and Duhok.

⁵⁹ Article 7 stipulates that any intimidation or attack against a journalist shall be punished. Article 8 states that no arrest or interrogation shall be made with any journalist or his work premises or private residence searched without a court decision.

in relation to processes for nominating commissioners of national human rights institutions and on the role and functions of national human rights institutions.

UNAMI/OHCHR remains concerned about political interference in the process, which hindered the proper functioning of the previous Board of Commissioners and which may hinder the appointment of Commissioners who will act independently as required by Law 53 of 2008, the Constitution of Iraq, and international standards as embodied in the “Paris Principles” that governing national human rights institutions (UN General Assembly resolution 48/134 of 1993 (A/RES/48/134)). UNAMI/OHCHR, in addition to technical advice and support, is undertaking advocacy with key interlocutors within the CoR and with civil society partners to try to ensure that the process of nomination is conducted as independently and as transparently as possible so that the best possible candidates will be nominated.

The transition from the Ministry of Human Rights to the High Commission for Human Rights (HCHR) has not been without its challenges, particularly in terms of ensuring adequate funding for the new institution. During the reporting period, the regional offices of the IHCHR in the south of Iraq experienced serious problems with their ability to function and effectively carry out their mandate due to unpaid salaries and inadequate operational resources. This had an adverse effect upon the work of the offices and the moral of their staff.

On 26 May, the staff of the Basra office of the IHCHR staged a sit-in protest in front of their office against the fact that they, like other employees of the IHCHR throughout the country, had not received their salaries for the past three months. The Director of the Office of the IHCHR informed UNAMI/OHCHR that his office had not been able to function properly for the past 10 months due to the problems associated with the transition from the Ministry of Human Rights to the High Commission. This issue was also noted by UNAMI/OHCHR in the dysfunctional state of the Maysan IHCHR. In July, UNAMI/OHCHR was informed that salaries had now been paid to the IHCHR staff but the ongoing issues of the operational budget and the disparity between the salaries of staff who joined the Commission from the now defunct Ministry of Human Rights as compared to staff that already worked for the Commission remained problematic, however the CoR indicated that the problems stemmed from the budget allocation by the CoR for the functioning of the IHCHR for 2016 (which could not be altered) but that the budget allocation would be amended for 2017 to ensure these difficulties were resolved.

9.1 Kurdistan Region of Iraq Independent Board of Human Rights

The Independent Board of Human Rights (IBHR) has been undergoing a two-year programme of capacity building aimed at ensuring it complies with the Paris Principles. UNAMI/OHCHR is the technical lead on this capacity-building programme, which is being undertaken jointly with the United Nations Development Programme (UNDP) and the United Nations Office for Project Services (UNOPS).

During the reporting period, UNAMI/OHCHR continued to support IBHR to secure its independence by reinforcing its mandate, functioning and structure, including by proposing legislative amendments to the 2010 Law to ensure the full independence and operation of IBHR.

Abbreviations

AAH	Asa'ib Ahl al-Haq militia
BBIED	Body-borne improvised explosive device
CCCI	Central Criminal Court of Iraq
IED	Improvised explosive device
IDP	Internally displaced person
IHCHR	Iraqi High Commission for Human Rights
IOM	International Organization for Migration
ISF	Iraqi Security Forces
ISIL	Islamic State in Iraq and the Levant
KR-I	Kurdistan Region of Iraq
KSF	Kurdistan Region of Iraq Security Forces
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
PKK	Partiya Karkeren Kurdistane/Kurdish Workers' Party
PMF	Popular Mobilization Forces
SVBIED	Suicide vehicle-borne improvised explosive device
UN	United Nations
UNAMI	United Nations Assistance Mission for Iraq
UNHCR	United Nations High Commissioner for Refugees
VBIED	Vehicle-borne improvised explosive device
YPG	Yekîneyên Parastina Gel

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UNAMI/OHCHR

Baghdad, Iraq

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