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IRAQ

ECPAT

COUNTRY OVERVIEW

*A report on the scale, scope and context of
the sexual exploitation of children*

MARCH, 2019



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Preface

Recent years have seen unprecedented progress towards embedding the child's right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children (SEC) enshrined in the Sustainable Development Goals (SDGs) adopted by world leaders in 2015. ECPAT International's Country Overviews on SEC provide an effective tool for advocacy at all levels as well as for monitoring, including on government commitments made in the SDGs to end violence against children in all its different forms by 2030.

ECPAT Country Overviews are first and foremost, a desk review exercise that gather and present all the existing publicly available information into a comprehensive summary of all forms of SEC in a country. They do not contain any new primary data. They also provide an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate SEC.

ECPAT Country Overviews also suggest concrete priority actions urgently needed to proactively advance the national fight against SEC and enable the monitoring of the implementation of international instruments on child rights related to sexual exploitation that have been ratified by the State. Furthermore, the ECPAT Country Overviews provide well-organised information and research, which can be used in preparing Alternative Reports and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

During the process, drafts are shared with ECPAT members, relevant local organisations, and experts working on the ground who review the content and supplement the information with other local sources and analysis. ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.

At a Glance

Iraq has a total population of more than 37 million, of which 47% are children. Years of conflict, including insurgency from the militant group Da'esh (also known as ISIL) and hosting up to 250,000 refugees from neighbouring Syria, have exacerbated the range of risks that children face, including to sexual exploitation.

Boys and girls from persecuted groups have faced high levels of sexual violence and exploitation either through recruitment into ISIL forces or through sexual enslavement by its members. Other children resorted to survival sex in desperation to escape the environment of violence and abuse and the lack of livelihood opportunities. Poverty and extremely limited opportunities force people, including boys and girls into exploitative conditions in order to survive or provide for their families. Boys have reported being required to provide sexual services to receive their wages in some working conditions. Girls escaping violence, abuse, forced marriages or so-called 'honour killings' are exploited by recruiters. Details of elaborate systems established for trafficking women and girls have been reported in areas previously controlled by ISIL.

National law enforcement and protection systems are stretched beyond breaking point, which has led to situations that allow child sex offenders to abuse with impunity. Instances of sexual exploitation of children through prostitution have been reportedly protected by complicit police and security forces. Instances of IDP and refugee

camp administrators have also been exposed as demanding sex, including with children, for food.

Sharp increases in access to technology see 80% of 15-year olds having access to a mobile phone, with many also online via these devices. Risks are increased from the big generational gap in Internet use meaning parents are unaware of the risks to online sexual exploitation that children face. Cases of sexual extortion where perpetrators threaten to expose private images have been reported that can lead to ongoing instances of sexual exploitation or even trafficking.

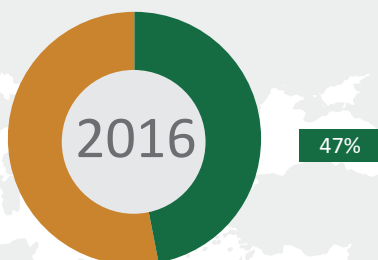
Since the retreat of ISIL forces in 2017, tourism has surged, particularly in the more stable Kurdistan Region of Iraq region, with tourist numbers hitting 1.3 million within the first half of 2018. As tourism grows, so may sexual exploitation of children in this context.

While the legal age for marriage is 18, many marriages are conducted outside the formal legal system without registration, meaning child marriage rates are likely to be higher than the roughly 24% of girls that has been reported. Child marriage can be viewed as a protection mechanism. For example, it was used to prevent girls being married to men associated with ISIL, or families in poverty benefit from bride price. *Fasliya* marriages (gifting a female to another tribe through marriage) are also practiced in some areas, particularly the south of the country.

POPULATION

SOURCE: UNICEF State of the World's Children Report 2017

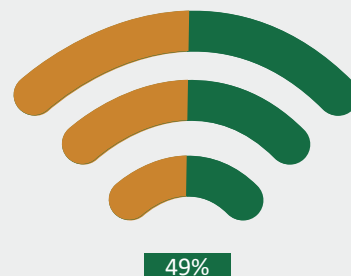
Children under 18 years



INTERNET ACCESS

SOURCE: ITU Statistics 2018: Iraq Country Profile

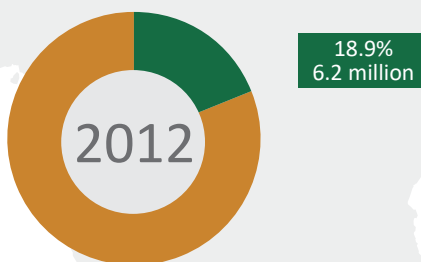
Have internet access



POVERTY RATE

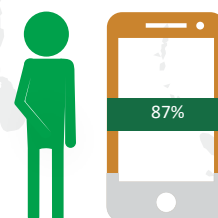
SOURCE: Poverty & Equity Data Portal: World Bank

Living under the national poverty line



MOBILE PHONE USERS

SOURCE: ITU Statistics 2018: Iraq Country Profile



87 mobile phone subscriptions
per 100 inhabitants

CHILDREN'S RIGHTS UNDER THE LAW

	Boys	Girls
Age of consent for sex	18*	18*
Minimum age for marriage	18^	18^
Legal working age	15~	15~
Compulsory age of schooling	11×	11×

* This limit only applies to sexual intercourse outside of marriage

^ With a few exceptions for children aged 15 and above

~ Under certain conditions set by law

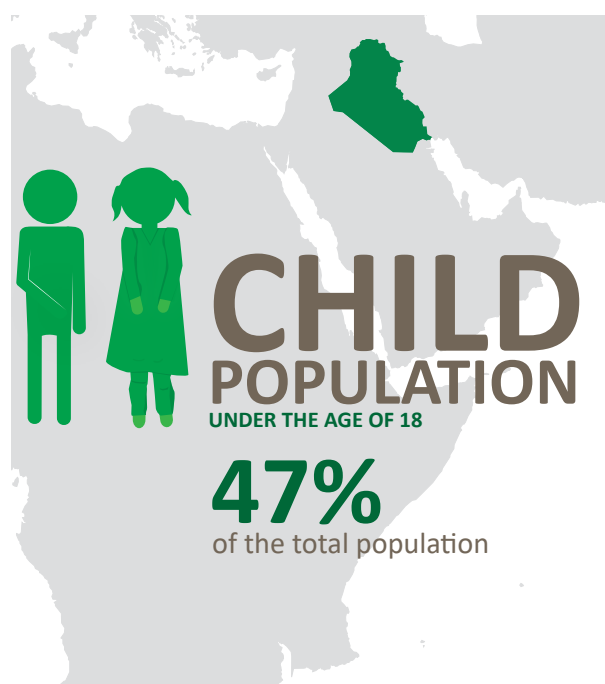
× 6 years of compulsory primary education (age group 6-11)

Introduction

COUNTRY OVERVIEW AND SPECIFIC VULNERABILITIES LEADING TO THE SEXUAL EXPLOITATION OF CHILDREN

The Republic of Iraq is a federal country composed of 19 governorates, out of which 4 are part of the Kurdistan Region of Iraq (KRI) in the north. The KRI was recognized as an autonomous federal region by the Constitution of 2005 and is run by the Kurdistan Regional Government.¹ Baghdad is the capital of Iraq, and Erbil of KRI. The country is home to several diverse ethnic groups including Arabs, Kurds, Assyrians, Turkmen, Armenians and Yazidis, as mentioned in different provisions of the Iraq Constitution.² The total population is 37,203,000 of which 17,460,000 are children - 47% of the total population.³ 18.9% of the population lived below the poverty line in 2012 (latest available data as of February 2019),⁴ and children in Iraq are exposed to a number of risks because of poverty. Boys and girls are driven to engage in hazardous forms of child labour, causing them significant physical and psychological harm while also exacerbating the risk of sexual exploitation and abuse.⁵ Social and gender norms, and traditional practices such as child marriage are also factors facilitating sexual exploitation of children in Iraq.

Humanitarian crises escalate the risk of sexual exploitation and violence which children are already exposed to during times of peace and stability. The onset of war in Syria in 2011 led to



a mass exodus of people from the neighbouring country seeking refuge across the border in KRI and Iraq, with half of the 250,000 refugees made up of children, most of whom still remain in Iraq currently.⁶ In 2014, Iraq experienced internal turmoil as the militant group Da'esh, also known as the Islamic State of Iraq and Levant (ISIL), captured areas in the north and west of the country, forcing more than 3.3 million people to flee their homes.⁷ Non-Muslim and ethnic minority groups were particularly targeted by ISIL, for example with mass atrocities perpetuated against

1 *Constitution of Iraq*. (2005). (Republic of Iraq).

2 Ibid.

3 UNICEF. (2017, December). *State of the World's Children 2017*. New York: UNICEF.

4 World Bank. (2018, October). *Poverty and Equity Brief: Middle East and North Africa – Iraq*. Washington D.C.: World Bank.

5 UNICEF. (2015, Dec). *A Rapid Assessment of Worst Forms of Child Labour. Iraq*: UNICEF.

6 Iraq: Syria Refugee Crisis. (n.d.). Save the Children.

7 International Organization for Migration. (2016, February 23). Displacement in Iraq exceeds 3.3 million: IOM. [Press Release].

the Yazidi community in northern Iraq.⁸ Boys and girls from persecuted groups faced high levels of sexual violence and exploitation either through recruitment into ISIL forces or through sexual enslavement by its members. Other children resorted to survival sex in desperation to escape the environment of violence and abuse and the lack of livelihood opportunities.⁹

After four years of armed conflict, the Iraqi government regained control over ISIL-occupied areas in 2017. However, many internally displaced people (IDPs), the vast majority of whom are women and children separated from male members of their families, now live in female-headed households and face significant new challenges.¹⁰ Many are trapped in IDP camps and settlements as they lack essential documentation.¹¹ Birth and marriage certificates issued by ISIL are not recognised by the Iraqi or KRI governments, and paternal identity of a child must be confirmed to issue new birth certificates. Children born out of rape, and women and children with perceived

affiliation with ISIL are blocked from obtaining identity cards by camp authorities, thus indefinitely detaining them in the camps while depriving them of access to basic food, medical and schooling services.¹² Amnesty International in 2018 reported the occurrence of sexual exploitation in these camps.¹³ Aid workers, camp administration and military personnel working in and near the camps were found coercing women and children into sexual services in exchange for food, medicine, documents and protection.¹⁴

Decades of instability in the country, heightened by violence and mass displacement in recent years, has caused a breakdown in national law enforcement and protection systems, allowing perpetrators to abuse with impunity.¹⁵ This, coupled with social and gender norms perpetuating stigma and a culture of shame and silence associated with sexual abuse, enable perpetrators to repeatedly exploit victims.

8 OCHR. (2016, June 16). UN Commission of Inquiry on Syria: ISIS is committing genocide against the Yazidis.

9 Iraq Child Protection Sub-Cluster. (2017, August 21). Secondary Data Review (National).

10 Amnesty International. (2018). *The Condemned – Women and Children Isolated, Trapped and Exploited in Iraq*. London: Amnesty International.

11 McKernan, B. (2017, May 18). Iraq's generation of stateless Isis children is being 'punished for the crimes of their fathers'. *The Independent*.

12 *Ibid.*

13 Amnesty International. (2018). *The Condemned – Women and Children Isolated, Trapped and Exploited in Iraq*. London: Amnesty International.

14 *Ibid.*, and Iraq Child Protection Sub-Cluster. (2017, August 21). Secondary Data Review (National).

15 U.S. Department of State. (2018). Country reports on human rights practices for 2017: Iraq. Bureau of Democracy, Human Rights and Labour.

Context for Sexual Exploitation of Children in Iraq

EXPLOITATION OF CHILDREN IN PROSTITUTION¹⁶

Article 2 (b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) defines ‘child prostitution’ as “the use of a child in sexual activities for remuneration or any other form of consideration”.¹⁷

Exploitation of children in prostitution exists in Iraq, driven primarily by economic deprivation. Girls running away from their families to escape abuse, forced marriages or the threat of so-called ‘honour killing’ are particularly at risk.¹⁸ These girls are targeted by recruiters, mainly women, who approach them in large cities, and take them to brothels under false promises of providing protection. Many are sold to criminal networks operating ‘recreational establishments’ such as casinos and nightclubs, found for example in Baghdad governorate’s Karrada district.¹⁹

Kirkuk is another governorate with a high recorded incidence of exploitation of children in prostitution. In May 2015, the United Nations Assistance Mission for Iraq (UNAMI) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), raised concerns for the safety and security of women and girls due to “increased prostitution, and the rising number of street children, who are particularly vulnerable to sexual exploitation” in Kirkuk.²⁰ Most of the victims in Kirkuk, a 2015 UNICEF study found, had run away to escape the abuse they faced at home and had involved themselves in prostitution as they “did not possess the skills or education for any other profession.”²¹ They were forced to stay at the perpetrators’ houses or in brothels in filthy conditions, and were allowed either to keep a small portion of money received from clients (IQD 15,000 approx. USD13) or, in most cases, provided only with accommodation and food. Police authorities in Kirkuk were found protecting the apartments, their complicity bought with sexual services offered free of charge. This in turn aggravated the impunity with which offenders acted, for example, the report details a 16-year-old girl who encountered multiple men waiting at a customer’s house and was forced to have sex with them at gunpoint.²²

16 ECPAT prefers the term ‘exploitation of children in prostitution’ instead of ‘child prostitution’ in line with the recently widely adopted Terminology Guidelines. Interagency Working Group on Sexual Exploitation of Children. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. 30. Bangkok: ECPAT International.

17 UN General Assembly. (2000, May 25). Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. (A/RES/54/263). Art. 2(b).

18 Finnish Immigration Service. (2018, May 22). *Overview of the State of Women Living Without a Safety Net in Iraq*. Iraq: Finnish Immigration Service.

19 *Ibid.*

20 UN General Assembly. (2015, July 27). Report of the United Nations High Commissioner for Human Rights. A/HRC/30/66. 9.

21 UNICEF. (2015, Dec). *A Rapid Assessment of Worst Forms of Child Labour Republic of Iraq*. Iraq: UNICEF.

22 *Ibid.*

In governorates where police intervention is less compromised, victims still fear reporting incidents of abuse and exploitation as they are at risk of being charged as ‘prostitutes’ and incarcerated for their “‘own protection”.^{23,24} Beyond Kirkuk and Baghdad, exploitation of children in prostitution has also been identified in the governorates of Dhi Qar and Najaf. In Dhi Qar, children were found to use begging at markets and near religious places as pretence to solicit prostitution.²⁵

Prostitution rings have also been found to operate in IDP and detention camps, operated by camp management authorities, armed security guards, and military personnel in and around the camps.²⁶ In a 2017 study by Refugees International, camp authorities in multiple camps were found to have taken control over the distribution of food and other aid material provided by the government and humanitarian organizations. The study reports an incident in which administrators of a camp told a woman that she would not receive any food “if she did not ‘give them’ her daughter (for sex).”²⁷

Boys are also vulnerable to sexual exploitation as their movements in public spaces are less restricted than girls. Reports from camps in KRI reveal boys as young as 7 years being lured by older boys and men to basements, empty structures, or the perpetrator’s home with promises of candy, food or money in exchange for sex.²⁸ Older boys living with their families both in camp and non-camp settings face tremendous pressure to provide for them. The scarcity of employment opportunities pushes them to work informally under exploitative conditions, for instance being forced to provide employers with sexual services in order to receive full wages.²⁹

ONLINE CHILD SEXUAL EXPLOITATION (OCSE)

Online child sexual exploitation (OCSE) can include child sexual abuse/exploitation material (CSAM/CSEM),³⁰ live streaming of child sexual abuse, online grooming of children for sexual purposes, sexual extortion of children and various CSAM/CSEM-related conducts (production, distribution, downloading).³¹ Article 2 (c) of the OPSC defines ‘child pornography’ as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”.³²

According to latest statistics from the International Telecommunications Union, 87% of Iraqi inhabitants have a mobile phone subscription and 49% individuals use the Internet.³³ In 2013, a survey conducted in the Middle East and North Africa (MENA) region by telecom association GSMA found that 68% of the 500 children (aged 8-17) interviewed across Iraq owned a mobile phone, reaching to over 80% by the age of 15.³⁴ Internet access via smartphones by children exceeded Internet access from home computers, with 78% of the children who used smartphones accessing the Internet on their phones. Globally, the widespread use of technology has radically altered the ways in which children are exploited, enabling perpetrators to contact children, produce and share child sexual abuse material (CSAM) much more easily.³⁵ Parents, on the other hand, may not be sufficiently equipped with the technological skills and understanding to protect their children. Iraq was found to have the largest gap between parents and children using social networking services amongst

23 UN Assistance Mission for Iraq (UNAMI). (2018, July 8). Report on Human Rights in Iraq: July to December 2017.

24 Dietrich, L. and Carter, S. E. (2017, May). *Gender and Conflict Analysis in ISIS Affected Communities of Iraq*. 39. Oxford: OXFAM International.

25 UNICEF. (2015, Dec). *A Rapid Assessment of Worst Forms of Child Labour Republic of Iraq*. Iraq: UNICEF.

26 Amnesty International. (2018). *The Condemned – Women and Children Isolated, Trapped and Exploited in Iraq*. London: Amnesty International.

27 Vigaud-Walsh, F. (2017, October). *Guilt by association: Iraqi women detained and subject to sexual exploitation and abuse*. Refugees International.

28 Chynoweth, S. (2017, October). *Sexual violence against men and boys in the Syria crisis*. UNHCR.

29 *Ibid*.

30 ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, but in a legal context still uses ‘child pornography’ in line with the recently widely adopted Terminology Guidelines, 40.

31 ECPAT. (n.d.). Issues we work on. Bangkok: ECPAT International.

32 OPSC, Article 2(c).

33 International Telecommunications Union. (2018). *ITU Statistics: Iraq Profile*. Geneva: International Telecommunications Union.

34 GSMA. (2014). *Children’s use of mobile phones: an international comparison 2013*. GSMA and Mobile Society Research Institute of NTT Docomo Inc.

35 ECPAT International. (2018). *Trends in Online Child Sexual Abuse Material*. Bangkok: ECPAT International.

the 4 countries surveyed in the MENA region.³⁶

Recent research analysing CSAM held in Interpol's database highlights the vulnerability of boys, also revealing higher severity of abuse in the material depicting boys.³⁷ In Iraq, mobile phones, the Internet and other information and communication technologies are used to sexually exploit and silence boy victims. Evidence of sexual extortion comes from cramped living quarters within camps and settlements in KRI, where older boys and men secretly photograph and film unsuspecting boys while they undress or use the bathroom, and use the material to blackmail them into sexual exploitation.³⁸ Taking advantage of the culture of shame and silence surrounding sexual abuse, perpetrators film the initial sexual encounter (often rape) to further blackmail the victim into continued sexual exploitation by threatening to expose the material to the community. Brief pornographic videos on phones were also shown by perpetrators as bait to lure potential victims to secluded places with the promise of watching more.³⁹

The extent of OCSE in Iraq is extremely difficult to determine owing to the scarcity of national data on reported cases, prosecution and conviction of perpetrators exploiting children online. Nevertheless, the existence of CSAM in Iraq has come to light. Inquiries on foreign military personnel in the UK in 2016 found that British troops had used CSAM discovered on the phone of an Iraqi detainee to leverage him into providing information, by printing out the images of child abuse and threatening to distribute the leaflets in the detainee's neighbourhood.⁴⁰ In the US, soldiers formerly stationed in Iraq have been charged with possession and distribution of CSAM and sentenced to prison for two to four years.^{41,42}

SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), defines 'trafficking in persons' as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".⁴³

In case of child victims, Article 3 (c) of the Protocol specifies that "the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if it does not involve any of the means stipulated in Article 3 (a)".⁴⁴ In other words, the Protocol recognises that children can never be willing participants to their own exploitation.

36 GSMA. (2014). Children's use of mobile phones: an international comparison 2013. GSMA and Mobile Society Research Institute of NTT Docomo Inc.

37 ECPAT International and Interpol. (2018). Towards a Global Indicator on Unidentified Victims in Child Sexual Abuse Material. Bangkok: ECPAT International.

38 Chynoweth, S. (2017, October). *Sexual violence against men and boys in the Syria crisis*. UNHCR.

39 *Ibid.*

40 Mendick, R. (2016, November 19). Outrage over army intelligence officers accused of child sex offences in 'witch hunt' against Iraq war veterans. *The Telegraph*.

41 Martinez, A. (2015, June 16). Fort Bliss soldier charged in child porn case earned bronze star, 27 other medals. *El Paso Times*.

42 Powell, M. (2014, May 6). Floyd County father and son plead guilty to child porn charges. *The News & Advance*.

43 UN General Assembly. (2000, November 15). United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). Res. 55/25 of 15. Art. 3 (a).

44 *Ibid.*, Article 3 (c).

For its part, the OPSC deals with the ‘sale of children’, defined as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”.⁴⁵

Both concepts are often used in conjunction and without any clear distinction. However, despite a certain overlap, ‘sale of children’ is not identical to ‘trafficking’. The ‘sale of children’ always involves some form of commercial transaction, which trafficking in children does not require, but does not necessarily include the purpose of exploiting a child (e.g. sale of children for illegal adoption). Therefore, ‘sale of children’ is not necessarily related to sexual abuse and sexual or other forms of exploitation. Lastly, the ‘sale of children’ can take place without physically moving the child out of his/her social environment, whereas trafficking inherently depends on the movement of the child.⁴⁶

The US Trafficking in Persons Report has classified Iraq as a source and destination country for children and women subjected to trafficking for sexual purposes.⁴⁷ According to the Ministry of Interior (MOI), 266 potential human trafficking cases were investigated in 2017, 68 of which were confirmed by the MOI as suspected cases of trafficking for sexual exploitation. Individuals were investigated by the MOI for knowingly soliciting victims of sex trafficking, of which 10 were convicted for human trafficking crimes. There is no further information and cases reported are not disaggregated by gender and age, making it difficult to determine how many of these were perpetrators trafficking children. In all, 32 traffickers were convicted in 2017 under the anti-trafficking law, a significant increase from 17 in 2016. Unfortunately, the government only initiated prosecutions when a victim pressed

charges, which was seldom done considering few victims knew the identity of their trafficker while others feared retaliation.⁴⁸ This approach derives from the overall pattern of Iraqi criminal substantive and procedural laws,⁴⁹ which consider some sexual-related misconducts, such as rape, as private offences, prosecution of which needs to be initiated by the victims themselves and not *ex-officio* by the State.⁵⁰ Even when cases were prosecuted, in some instances, victims – including child victims of trafficking for sexual purposes – were convicted by judges of committing prostitution violations and sentenced from 15 years to life imprisonment.⁵¹

In Iraq, criminal networks and individuals involved in trafficking deploy different methods, such as filming sexual assault for blackmail and fake or temporary marriages, to facilitate the trafficking of young girls and women both within the country and to neighbouring countries in the Middle East and Europe.⁵² Girls separated from their families – those displaced as well as those running away from home to escape domestic abuse or forced marriages – are higher at risk of being targeted by traffickers. Once trafficked they are sold for up to 20,000 USD outside Iraq. Within the country, 200 to 500 USD is charged for a night with a virgin, the demand for which has also resulted in victims being forced to undergo hymen reconstruction surgery and re-trafficked as virgins.⁵³

The onset of conflict with ISIL in 2014 exacerbated existing trends in trafficking, and saw the formation of newer more heinous ones in which children were abducted, confined, sexually abused and tortured. An organized system of sexual slavery was developed by ISIL with a network of warehouses to hold the victims, viewing rooms to inspect and market them, as well as sales contracts notarized by ISIL-run courts.⁵⁴ Hundreds of girls and women from the persecuted Yazidi community and other ethnic and religious minorities were either awarded to ISIL fighters as ‘spoils of war’, or sold as slaves in markets in Iraq and Syria to

45 OPSC, Article 2 (b).

46 ECPAT International. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. 58. Bangkok: ECPAT International.

47 US State of Department. (2018). Trafficking in persons report 2018

48 *Ibid.*

49 Information provided by Jiyan Foundation, an ECPAT member in the country.

50 See e.g. *Criminal Procedure Code No. 23 of 1971 (As Amended to 14 March 2010)*. (1971). Art. 3 (iii) (Republic of Iraq).

51 US State of Department. (2018). Trafficking in persons report 2018

52 *Ibid.*

53 Information from a report by Minority Rights Group International and the Ceasefire Centre for Civilian Rights, cited in Batha, E. (2015, February 18). Iraqi women trafficked into sexual slavery- rights group. *Thomas Reuters*.

54 Callimachi, R. (2015, August 13). ISIS enshrines a theology of rape. *The New York Times*.

lure more boys and men into ISIL.⁵⁵ Others were sold across the border to fighters from Saudi Arabia, Qatar, Chechnya or Afghanistan.⁵⁶ Reports document the experiences of girls as young as 12 who were sold and raped, in line with ISIL theology and guidelines for sexual slavery which explicitly condone the sexual use of female slaves regardless of age.^{57,58} Boys younger than 10 years of age were conscripted as child soldiers for combat and other support purposes by ISIL and local militias fighting against ISIL.⁵⁹ The UN documented 523 cases of children recruited by armed groups in 2017, of which 109 cases (101 boys, 8 girls) were verified.⁶⁰ New recruits were reportedly exposed to high levels of sexual violence, including gang rape and sexual torture by members of these armed groups.⁶¹

Refugees and IDPs in camps remain vulnerable to sale and trafficking for sexual purposes. Government and NGO reports contain evidence of local government authorities and security personnel working in collaboration with human trafficking networks in KRI, particularly in the Domiz refugee camp.⁶² While some victims are lured with false promises of placements outside KRI, other IDPs and refugees sell their children to secure a better future inadvertently putting them at an elevated risk of being trafficked.⁶³ The KRI government reported conducting 58 investigations into abuses against Iriqi citizens as foreign workers, however there is no information about prosecution or conviction of the offenders.⁶⁴

Sexual exploitation of children in travel and tourism (SECTT)

The sexual exploitation of children in travel and tourism (SECTT) is defined as any “acts of sexual exploitation embedded in a context of travel, tourism, or both”.⁶⁵ The UNWTO Framework Convention on Tourism Ethics recognises that the exploitation of children conflicts with the fundamental aims of tourism and should be strongly combated with the cooperation of all the States concerned.⁶⁶

The UN World Trade Organisation recorded 892,000 international tourist arrivals in Iraq in the year 2013,⁶⁷ the figure dropping dramatically since then owing to conflict plaguing the country.⁶⁸ However, travel and tourism rates, particularly to the more stable KRI region, have surged since 2017 after the retreat of ISIL forces. According to local media sources, tourism numbers hit a record high in 2018 with 1.3 million tourists visiting KRI in the first six months of the year.^{69,70} The majority of these tourists were domestic, from Central and Southern Iraq; the remaining from neighbouring countries such as Iran and Turkey.⁷¹

The Global Study on SECTT identified that child sex offenders include domestic travellers who visit cities and urban settlements with high populations

55 UNAMI and OHCHR. (2014). *Report on the Protection of Civilians in Armed Conflict in Iraq: 6 July-10 September 2014*. 15. Baghdad: UNAMI and OHCHR.

56 Information from a report by Minority Rights Group International and the Ceasefire Centre for Civilian Rights, cited in Batha, E. (2015, February 18). Iraqi women trafficked into sexual slavery- rights group. *Thomas Reuters*.

57 Human Rights Watch. (2015, April 14). *Iraq: ISIS escapees describe systematic rape*. Human Rights Watch: New York.

58 Callimachi, R. (2015, August 13). ISIS enshrines a theology of rape. *The New York Times*.

59 US State of Department. (2017). *Trafficking in persons report 2016*.

60 United Nations Security Council. (2018, May 16). *Children and armed conflict: Report of the secretary-general*.

61 Ibid. and Chynoweth, S. (2017, October). *Sexual violence against men and boys in the Syria crisis*. UNHCR.

62 Finnish Immigration Service. (2018, May 22). *Overview of the State of Women Living Without a Safety Net in Iraq*. Iraq: Finnish Immigration Service.

63 *Ibid.*

64 US State of Department. (2018). *Trafficking in persons report 2018*.

65 ECPAT International, Defence for Children, Ministry of Foreign Affairs of the Netherlands. (2016, May). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism (hereinafter Global study on SECTT)*. Bangkok: ECPAT International.

66 UN General Assembly. (11-16 September 2017). *Consideration, approval or adoption of the UNWTO Framework Convention on Tourism Ethics*. UN Doc. A/RES/707(XXII). Art. 5 (3).

67 This is the latest available statistic at the time of writing of this report. UNWTO. (n.d.). *International tourism, number of arrivals*. Compendium of Tourism Statistics dataset- Iraq. Madrid: UNWTO.

68 World Travel and Tourism Council. (2018). *Travel and tourism economic impact 2018 Iraq*.

69 Kurdistan Regional Government. (2018, October 15). *Tourism in Kurdistan region hits record high*. *Iraq Business News*.

70 Kurdistan 24. (2018, August 23). *Kurdistan region witnesses tourism boom as Erbil-Kirkuk road reopens*. Kurdistan 24.

71 Ibid. and Sulaivany, K. (2018, June 19). *Kurdistan region will attract seven million tourists by 2025: tourism board spokesperson*. Kurdistan 24.

of street-connected children to sexually exploit them.⁷² Additionally, in countries rife with conflict and corruption, impunity for sexual offending is the norm which has the impact of not discouraging 'situational offending.' Thus travellers and tourists who may not directly seek out children to exploit still go through with their crime in the absence of any deterrence. In Iraq, particularly in KRI region which hosts the majority of IDPs and refugees, individuals from these groups are constantly in search of ways and means to survive. In Tikrit, for instance, in an analysis of child protection rapid assessment reports, separated and unaccompanied children were found responding to the lack of livelihood opportunities by resorting to harmful coping mechanisms, including survival sex.⁷³

Further, to promote tourism the Kurdistan Regional Government reduced taxes by 50% in KRI's main cities and 70% in non-urban areas in 2018, in an effort to encourage the development of hotels and other tourism infrastructure.⁷⁴ As tourism grows in the country, so may SECTT. It will be important that initiatives that target the tourism sector, such as the Code,⁷⁵ a global initiative which trains actors from the tourism industry to recognise and respond to sexual abuse and exploitation of children, are actively taken up by national tourism actors.⁷⁶

IN 2018 TOURISM NUMBERS HIT 1.3 MILLION



Child, early and forced marriage (CEFM)

The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) define 'child marriage' as "a marriage in which at least one of the parties is a child. It also refers to the act of marrying off children, usually young girls, with or without their consent".⁷⁷ Some forms of child marriage are related to commercial sexual exploitation of children, in cases where child marriage is linked to forced child labour, slavery and bondage, servitude or payment of a dowry.⁷⁸

The legal age of marriage in Iraq is 18 years, but girls above the age of 15 can marry with parental consent.⁷⁹ The country has witnessed a steady rise in child marriage over the years, recording an increase in the marriages of girls from 20% in 2012 to 24% by 2016 - of which 5% were below the age of 15.⁸⁰ However, these rates are likely to be much higher since marriages in Iraq and KRI are generally conducted outside the formal legal system by *imams* (Muslim religious leaders) without registration and hence go unreported.⁸¹

Child, early and forced marriage in Iraq is driven by socio-religious traditions and poverty. Early marriage is viewed as a means to protect family honour from potential damage caused by engaging in pre-marital sex and relationships.⁸² Forced marriage is observed among tribes in Iraq where the tradition of *fasliya* is widely practiced, in which tribal disputes are resolved by 'gifting' a female family member to another tribe. The incidence of *fasliya* marriages is highest in rural and poor areas, particularly in the southernmost provinces of Iraq, and often involves underage girls. In the single province of Basra for instance, 50 girls and women were reported victims of *fasliya*

72 ECPAT International, Defence for Children, Ministry of Foreign Affairs of the Netherlands. (2016, May). Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism. Bangkok: ECPAT International.

73 Iraq Child Protection Sub-Cluster. (2017, August 21). Secondary Data Review (National).

74 Rudaw. (2018, November 28). Kurdistan region tourism rebounds to pre-war levels. *Rudaw*.

75 The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. (n.d.).

76 The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism: Signatories. (n.d.).

77 Terminology Guidelines, 63.

78 ECPAT International and Plan International. (2015), Thematic Report. Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage. Bangkok: ECPAT International.

79 *Personal Status Law No. 188*. (1959). Art. 3. (Republic of Iraq).

80 UNICEF. (2017, December). State of the World's Children 2017. New York: UNICEF

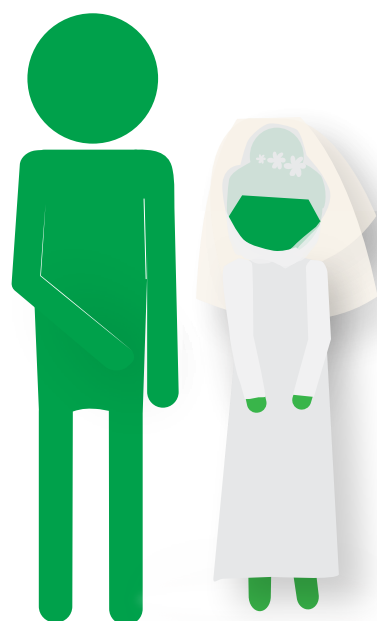
81 UNFPA. (2016). Child marriage in Kurdistan region – Iraq.

82 *Ibid*.

marriages in the year 2015 alone.⁸³ According to a local news agency, nearly 3,300 *fasliya* marriages had taken place between 2006 and 2016 in the country.⁸⁴ In *al nehwa* marriages, common in rural areas of northern Iraq, girls are forced to marry their cousins on their father's side, and are exchanged between families to avoid paying bride price. The Islamic tradition of polygamy allowing a man to have up to 4 wives, and temporary marriages known as *mut'a* marriages are used by perpetrators of trafficking to procure girls and women for prostitution. The practice of *mut'a* marriage does not require witnesses, officials or family members to be involved or the contract to be registered. Perpetrators have been known to use this for trafficking, divorcing the women or girls after crossing the border, and returning to Iraq to repeat the process.^{85, 86}

As observed with other forms of SEC, child marriage has compounded following armed conflict, turning the practice into a coping mechanism. Girls and women who were abducted by ISIL and sold in slave markets were forcibly married to fighters, sometimes multiple times either through temporary marriages or after the 'husband' was killed in combat.⁸⁷ Oxfam's research in ISIL occupied areas in 2017 found many families choosing child marriage as a mechanism to protect their daughters from this fate, by marrying them off to their cousins or into polygamous households because of the reduced number of 'available' men not associated with ISIL.⁸⁸ In other cases, parents married their daughters to ISIL members to ensure safety, access to services and livelihood opportunities for the entire family.⁸⁹

Rates of marriage in refugee and IDP camps have also spiked, with marriage viewed as a means of social and moral protection in an environment where girls and women separated from their families are exposed to men outside their familial circle, and are at a heightened risk of being exploited through prostitution and trafficking (as noted in previous sections). Other push factors for child marriage in camps include the lack of schooling options and monetary gains from dowry/bride price for displaced families struggling to make ends meet.⁹⁰



83 Finnish Immigration Service. (2018, May 22). *Overview of the State of Women Living Without a Safety Net in Iraq*. 31. Iraq: Finnish Immigration Service.

84 *Ibid.*

85 Kentane, B. Iraqi Children: Deprived Rights, Stolen Future. (2018, June 24). *Global Research*.

86 Puttick, M. (2015, February). *No Place to Turn: Violence against women in the Iraq conflict*. United Kingdom: Ceasefire Centre for Civilian Rights and Minority Rights Group International.

87 UNICEF, et al. (2018). *Child marriage in humanitarian settings: Spotlight on the situation in the Arab region*.

88 Dietrich, L. and Carter, S. E. (2017, May). *Gender and Conflict Analysis in ISIS Affected Communities of Iraq*. Oxford: OXFAM International.

89 *Ibid.*

90 Barbarani, S. (2016, May 9). Pushed to accept marriage, Iraq's displaced child brides face bleak future. *Thomas Reuters Foundation News*.

International, Regional and National Commitments and Legislation on SEC

INTERNATIONAL, REGIONAL AND NATIONAL COMMITMENTS AND LEGISLATION ON SEXUAL EXPLOITATION OF CHILDREN

Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council		
International Instruments		Date of ratification/accession
Convention on the Rights of the Child - 1989		1994
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000		2008
Optional Protocol on a communications procedure - 2011		No action
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)		2001
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)		2009
Regional Instruments		Date of ratification/accession
Arab Charter on Children's Rights - 1983		1986
Arab Charter on Human Rights - 1994		2012
Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (CRC review)	2013 Next report due on 14 July 2020	Key concluding observations related to SEC: Ensure that the minimum age of marriage set at 18 years for both girls and boys is enforced, that in no circumstance can a child below 16 years of age be married and that grounds for obtaining derogation as of 16 years are strictly defined by law and subject to the authorization of a competent court upon the full, free and informed consent of the child;

Human Rights Bodies	Date of latest submitted report	Comments
		• Ensure that all cases of sexual exploitation and abuse of children are thoroughly investigated and the perpetrators prosecuted and punished; • Establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation.⁹¹
Committee on the Rights of the Child (OPSC review)	2013 Examined on 4 February 2015	Key concluding observations related to SEC: • Take all necessary measures to ensure that any form of sale of girls and women is fully criminalized, investigated and prosecuted, in particular selling, buying or exchanging them, or using them as gifts or compensation, including in slave markets, via muta'a and in the context of dispute resolution before tribal or religious courts. • Take prompt measures to ensure that children's testimonies are regarded as full proof, and that children are allowed to file a complaint on their own behalf. • Establish an effective system of reporting, with a child-sensitive inquiry and judicial procedure that fully protects children's privacy and dignity.⁹²
Human Rights Council – Working Group on the Universal Periodic Review	2014 Iraq will be under review during the 35 th session (November 2019)	Key recommendations related to SEC: • Amend the discriminatory provisions against women in the legislation and take steps to fight violence against women and harmful practices, such as child marriage and crimes committed in the name of 'honour'. • Adopt measures aiming at combating effectively the trafficking of persons and the exploitation of women and children. • Consider the establishment of an office of the Ombudsman for Children's Rights devoted purely to the protection of the rights of the child.⁹³

91 UNCRC. (2015, March 3). *Concluding observations on the combined second to fourth periodic reports of Iraq*. (CRC/C/IRQ/CO/2-4).

92 UNCRC. (2015, March 5). *Concluding observations on the report submitted by Iraq under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. (CRC/C/OPSC/IRQ/CO/1).

93 Human Rights Council (2014, December 12), Report of the Working Group on the Universal Periodic Review. Iraq. (A/HRC/28/14).

INTERNATIONAL AND REGIONAL COMMITMENTS

Commitment	Start Date
Sustainable Development Goals	2016
Regional commitments	
Commitment	Start Date
Arab Framework on the Rights of the Child - 2001	2001
Arab Plan of Action for Children 2004-2014	2004
Regional Interventions Action Plan for Arab States	2018-2021

NATIONAL LEGISLATION

Owing to the administrative breakup of Iraq and KRI, new laws and amendments originating from the Parliament in Baghdad enacted after 1992 are not recognised as applicable in KRI unless expressly endorsed by legislation of the Kurdistan Parliament, unless they are laws relating to the exclusive federal powers as listed in Article 110 of the 2005 Constitution.⁹⁴ The following sections contain legislations that are applicable in both territories.

Exploitation of children in prostitution

Pursuant to Article 399 of the Iraqi Penal Code, which was endorsed by the Kurdish Parliament, incitement of minors to prostitution or fornication, and assisting minors to engage in prostitution are criminal offences.⁹⁵ The provision protects both boys and girls. The term of imprisonment for such offences has not been described under the said provision.⁹⁶ However, if the offender was a relative of the victim (within three generations), a guardian, protector or custodian of the victim, or the victim is the offender's servant, the penalty will be a term of imprisonment not exceeding 10 years.⁹⁷ The same applies if the offender has authority over the victim, or is a public official, religious leader, or doctor and has used the power of his position or trust in him to perpetrate the offence and intends to profit by his action or receives money for such action.⁹⁸ The main limitation of these provisions lies in the fact that the legislation does not define the exploitation of children in prostitution. Moreover,

the acts prohibited under the OPSC are not expressly covered in the national legislation as it only criminalizes incitement and assistance to prostitution.

Although there is no specific offence for engaging in prostitution with a minor, Article 394 of the Criminal Code criminalises the act of having sex outside a marriage with a girl or a boy under 18-year-old, even with his/her consent, setting higher penalties when the child is under 15. However, from a strict reading, this article only protects boys from sexual exploitation in the case of a same-sex offenders as it reads, "any person who, outside of marriage, has sexual intercourse with a woman with her consent, or commits buggery".⁹⁹ In addition, Article 398 of the Criminal Code offers to the offender the possibility to legally avoid an investigation and any other judicial proceeding by marrying his victim. This provision is also applicable to cases of sexual intercourse without consent.¹⁰⁰



⁹⁴ *Penal Code No. 111 of 1969 (Amended in March 2010)*. (1969). Introduction. (Republic of Iraq).

⁹⁵ *Ibid.*, Article 399.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*, Art. 87

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*, Art. 394.

¹⁰⁰ *Ibid.*, Art. 398.

Online child sexual exploitation (OCSE)

With the exception of disseminating, exporting and offering, Article 403 of the Criminal Code prohibits the acts prescribed by the OPSC when they involve book, printed or other written material, drawing, picture, film, symbol or any other thing that violates the public integrity or decency. However, the provision requires those acts to be committed with the intent to exploit or distribute such material. In addition, the legal framework does not correctly reflect the gravity of child sexual abuse material by failing to have specific criminal provisions defining, in accordance with the OPSC, child sexual abuse material and sanctioning not only its production, distribution, sale, import, but also its dissemination, offer, export or possession for the above purposes. The Criminal Code also remains silent on online grooming, even though, depending on the appreciation of the judges, this could be prosecuted on the basis of Article 399 of the Criminal Code which prohibits incitement of minors to sexual relations.

Sale and trafficking of children for sexual purposes

Prohibition of trafficking in children is enshrined in Article 37 of the Iraqi Constitution which states that, “forced labour, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited.”¹⁰¹ The Iraqi 2012 Law on Trafficking in Persons implements this constitutional prohibition.¹⁰² It reflects some of the key elements of the definition of trafficking in persons of the Palermo Protocol.¹⁰³

The commission of any of the acts prohibited under the definition of human trafficking against a minor, shall be punished by life imprisonment and penalty of not less than 15 million to 25 million Iraqi dinars (between 12,500 – 21,000 USD as of March 2019).¹⁰⁴ While online crime has not been

dealt with elsewhere, interestingly the statute also punishes the acts of establishing or managing an Internet website to engage in human trafficking.¹⁰⁵ This statute defines human trafficking as all acts including “recruiting, transporting, housing or receiving individuals by force, threat to use force, or other means including by coercion, kidnapping, fraud, deception, misuse of power, exchange of money, or privileges to an influential person in order to sell and exploit the trafficked individuals by means of prostitution, sexual abuse [...]”¹⁰⁶ The legislation is not in full conformity with international standards as it fails to criminalise the acts of transferring and harbouring. In addition, despite signing it 10 years ago, the law fails to follow the standards laid down in the Palermo Protocol according to which the means of trafficking are to be considered irrelevant when the victim is a child. In the Kurdistan area, traffickers enjoy a legal vacuum, as the 2012 Law on Trafficking is not applicable to the Kurdistan region, which however lacks its own legislation on the topic.

Sexual exploitation of children in travel and tourism (SECTT)

The Iraqi legislation does not address SECTT specifically, and, in addition, more broadly, the responsibility of legal persons is not addressed by the Penal Code. As a result, complicity or assistance of travel agencies in the sexual exploitation of children, for example, by organizing travel arrangements with the purpose of engaging in SEC, will not result in liability for the company. Only the 2012 Law on Trafficking specifies that people maybe held criminally responsible if he/she was an accomplice of trafficking.¹⁰⁷ The latest Trafficking in Persons report has also noted that the Iraqi government has not made efforts to reduce the demand for sexual exploitation of children in travel and tourism.¹⁰⁸

101 *Constitution of Iraq*. (2005). Art. 37(3) (Republic of Iraq).

102 *Law No.28*. (2012). (Republic of Iraq).

103 UN General Assembly. (2000, November 15). United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). Res. 55/25

104 *Law No.28*. (2012). Art.6. (Republic of Iraq).

105 *Law No.28*. (2012). Art.7. (Republic of Iraq).

106 *Law No.28*. (2012). Art.1. (Republic of Iraq).

107 *Law No.28*. (2012). Art.9. (Republic of Iraq).

108 Department of State, USA. (2018, June). *Trafficking in Persons Report*. 233. Washington D.C.: Department of State, USA.

Child, early and forced marriages (CEFM)

Marriage is regulated by the Personal Status Law (PSL), which sets the minimum legal age for marriage at 18.¹⁰⁹ However, the legislation does not criminalise the conclusion of a marriage with a person under the marriageable age under certain circumstances. When the child victim in question is 15 years or older, following the ascertainment of the minor's physical and legal maturity, the Court can authorise the minor to marry, except if the parent or the guardian explicitly objects to the wedding. The judge can also authorise such marriages in case of an urgent necessity.¹¹⁰

Consent is also a fundamental condition to the validity of the marriage under Iraqi law.¹¹¹ In addition, the provisions related to early marriage reiterate the need for the informed consent of the child in the conclusion of the marriage by stating, "if a 15-year old person asks to be married".¹¹² This legislation also condemns forced marriages explicitly under Article 9. In addition, while the majority of facilitators of CEFM cases turn out to be close relatives of the victim, the Personal Status Law specifically sets lower penalties when the offender is a first-degree relative, with a sentence of maximum three years of imprisonment while a non-first-degree relative might be sentenced to three to ten years of imprisonment.¹¹³ This provision is peculiar and worrying as it seems to condone first-degree relatives who facilitate CEFM by affording a lighter punishment on them. Of particular concern is the fact that the contract will only be voided if the marriage has not been consummated.¹¹⁴

The current law applies to everyone regardless of their religious affiliation. However, the Iraqi Constitution recognizes the freedom of anyone to their personal status according to their religion under Article 41.¹¹⁵ This means that there is room for separate legislation to be applied on marriage,

divorce, and inheritance matters based on religious affiliation.¹¹⁶ It is under this constitutional provision that, in 2014, a law was proposed by several Shia Islamic parties' members to the Iraqi Parliament that would have allowed courts to make exceptions to the current legal system and allow marriage of girls as young as 8 year old by application of religious laws instead of the Personal Status Law. After many protests, the amendments to the Personal Status Law were finally rejected.¹¹⁷

The Kurdistan region has his own legislation related to personal status,¹¹⁸ which presents some differences from the Iraqi Personal Status Law. Unlike the Iraqi Personal Status Law, where two exceptions are provided in cases involving children aged 15 and above, a child in the Kurdistan region must be above the age of 16 to be exceptionally authorised to be married.¹¹⁹ In addition, regarding child, early and forced marriages, the Kurdistan Personal Status Law states that, "even if the marriage is consummated, the contract shall be suspended".¹²⁰ Finally, in addition to a similar provision on forced marriage, the Kurdistan legal system additionally recognises child, early and forced marriages as acts of domestic violence under Article 2 of the Act of Combating Domestic Violence.¹²¹

Extraterritorial jurisdiction and extradition law

The Iraqi legal system enables the prosecution of any person in Iraq who is currently present on the Iraqi soil and has committed one of the crimes listed in Article 13 of the Criminal Code abroad, which includes trading in children.¹²² Beyond the crimes listed under Article 13, Iraqi courts and tribunals also have jurisdiction over Iraqi nationals committing a felony or a misdemeanour abroad, provided that the act to be tried is prohibited by both the law of the State where it was committed

109 *Personal Status Law No. 188. (1959). Art. 3. (Republic of Iraq).*

110 *Ibid.*, Art. 8.

111 *Ibid.*, Art. 9.

112 *Ibid.*, Art. 8.

113 *Ibid.*, Art. Article 9(2).

114 *Ibid.*, Art. 9(1).

115 *Constitution of Iraq. (2005). Art.41 (Republic of Iraq).*

116 UNFPA. (2016). *Child Marriage in Kurdistan region- Iraq. 5. Iraq: UNFPA*

117 Human Rights Watch. (2017, December 17). *Iraq: Parliament rejects Marriage for 8-Year-Old Girls. Iraq: Human Rights Watch*

118 *Personal Status Law No. 15. (2008). (Kurdistan Region of Iraq).*

119 *Ibid.*, Art. 5.

120 *Ibid.*, Art. 6.

121 *The Act of Combating Domestic Violence in Kurdistan Region- Iraq No. 8. (2011). Art. 2. (Kurdistan Region of Iraq).*

122 *Penal Code No. 111 of 1969 (Amended in March 2010). (1969). Art. 13. (Republic of Iraq).*

and by Iraqi law.¹²³ Unlike what is recommended by the OPSC, Iraqi courts and tribunals do not have jurisdiction over offences perpetrated abroad against their nationals.

With regard to extradition, the Iraqi Criminal Procedure Code differentiates the situation of a person accused of a crime and of a person sentenced by the state requesting extradition.¹²⁴ In the latter case, it is required for the offender to have been sentenced to a least 6 months of imprisonment. When the person is accused of a crime by the State requesting extradition, the Code establishes the double criminality requirement for extradition, which means that the offender can be extradited only if the crime he/she committed

was prohibited in both Iraq and in the country requesting extradition. The offence should carry a prison sentence of not less than two years under the laws of the state requesting extradition and of Iraq. Moreover, the Criminal Procedure Code stipulates that no Iraqi nationals will be extradited,¹²⁵ as well as offenders over which Iraq has jurisdiction according to the Criminal Code.¹²⁶ Article 352 stipulates that these rules will be followed in consultation with the regulations of international treaties and agreements and the principles of international law and the principle of reciprocity.¹²⁷

123 *Ibid.*, Art. 10.

124 Criminal Procedure Code No. 23 of 1971 (As Amended to 14 March 2010). (1971). Art. 357-A. (Republic of Iraq).

125 *Ibid.*, Art. 358(4).

126 *Ibid.*, Art. 358(2)

127 *Ibid.*, Art. 352.



National Response to SEC

COORDINATION AND COOPERATION

The National Child Protection Policy of Iraq was launched in 2017, drafted by the Ministry of Labour and Social Affairs (MoLSA) in collaboration with civil society and UN organisations.¹²⁸ The policy outlines a strategic framework designed to guide national strategies and action plans for the next 10 years.¹²⁹ The Child Welfare Authority, a body of MoLSA, assumes the lead role in coordinating the different ministries, NGO and other stakeholders involved in the delivery of child protection services. An inter-ministerial council is to be established in order to propose new bills for child protection in parliament, modify and cancel existing laws in compliance with the CRC and international standards, and monitor and report on the enforcement of child protection laws and mechanisms in the country. It is unclear if the council has been established. Emphasis is also laid on working in cooperation with communities, and involving religious and community leaders such as *mukhtars* as key partners in protecting children by condemning abusive traditional behaviours and promoting good practice in religious discourse. Understandably, much focus is placed on eliminating sexual violence and mitigating the adverse effects of conflict. The policy calls for the establishment of integrated programmes across sectors to improve national efforts to respond to crisis situations by collaborating and mapping emergency child protection services provided by international organisations and NGOs.

The policy does not specifically address the manifestations of SEC. It does however recommend the formation of a national committee on the safety of children on the Internet, which could encompass elements of OCSE. The committee is to propose preventive plans and coordinate efforts of the stakeholders involved, and include especially private sector actors such as Internet service providers and communication companies. Further, there is limited information on ongoing efforts to implement the policy.

In November 2017, an inter-ministerial committee was established to monitor, evaluate, and report on children's rights violations in conflict zones in Iraq.¹³⁰ Led by the MoLSA, a national action plan to address children in armed conflict is to be drafted by the committee, however, there is no indication yet of the drafting of this plan, or if the committee has met since its establishment.¹³¹ Similarly, inter-ministerial anti-trafficking committees have been established both in Iraq and KRI, however limited resources and funding have compromised the governments' activities to combat trafficking as well as provide assistance and protection to victims.¹³²

As government functioning remains severely impaired from years of internal conflict, UN agencies and international organisations providing humanitarian assistance have played pivotal roles in enhancing coordination by working closely with both the Iraqi and KRI governments.¹³³

128 United Nations Assistance Mission in Iraq (UNAMI). (2017, July 5). National Child Protection Policy of Iraq launched in Baghdad. [Press release].

129 Ministry of Labour and Social Affairs. (2017). National policy document for child protection. [translated from Arabic]

130 US State of Department. (2018). Trafficking in persons report 2017.

131 *Ibid.*

132 *Ibid.*

133 UNICEF. (2017). *UNICEF Annual Report 2017 – Iraq*. Iraq: UNICEF.

For instance, Interagency Standard Operating Procedures for Child Protection Case Management in the KRI were developed in 2016 in collaboration with 11 government bodies, UN agencies, international organisations and NGOs.¹³⁴ One of its key objectives is to guide coordination procedures preventing and responding to child protection issues in the entire KRI, which covers child victims of sexual abuse, child marriage, prostitution and trafficking.¹³⁵

Prevention measures, awareness-raising and education

The National Child Protection Policy incorporates in its strategic framework campaigns to change public opinion and promote children's right to protection by raising awareness about the laws in force and their implementation mechanisms.¹³⁶ The policy also calls for meetings and discussions with clerics and religious leaders to gain their support in discarding harmful traditional practices, and building partnerships with community members to help identify and report abuse.

Awareness-raising for human trafficking has reportedly been undertaken by the Iraqi government through campaigns in print media, television, radio, and through seminars at universities.¹³⁷ In KRI, the government has adopted a plan to prevent child marriage proposed by the High Council of Womens Affairs, which includes the implementation of the "Ensuring My Future" campaign to change prevailing societal attitudes towards marriage as a means of securing girls' futures.¹³⁸ The campaign uses a combination of religious and health arguments as well as showcases success stories of women in different professional fields to encourage girls to complete their education and pursue careers. In Iraq, UNICEF established a partnership with religious leaders in federal government to develop a framework on prevention of violence against children and child marriage.¹³⁹ The programme aims at changing

prevailing norms and attitudes through community and civil society participation in targeted neighbourhoods.

In terms of education and training, the Ministry of Education received technical support from UNICEF to develop a school curriculum with psychosocial support and social cohesion components for public schools in the areas which were previously under the control of ISIL.¹⁴⁰ In KRI, Save the Children implemented a resilience programme for children, to recognise and prevent sexual violence and abuse by enhancing children's understanding of protection and rights, and discerning appropriate and inappropriate touches.¹⁴¹ The sessions, based on the 'Safe You and Safe Me' booklet, led to the disclosure of experiences of sexual violence by both boys and girls to the facilitators. In order to increase awareness on cybersecurity, the National Child Protection Policy has named the introduction of a specialized curriculum on children's safety on the Internet in schools.¹⁴² In research for this report, no progress on this work was identified.

In order to address the issue of sexual exploitation by aid workers, the Iraq Network to Protect from Sexual Exploitation and Abuse was established by UN agencies. In 2017, 400 frontline workers were trained in Sulaymaniyah, Dohuk, Baghdad, Basra, Soran and Erbil on understanding the power imbalance between aid actors and vulnerable populations, to understand what behaviour was unacceptable, and how to respond when they witnessed or received a complaint about abuse.¹⁴³ On the basis of these trainings, an action plan on preventing sexual abuse and exploitation has been developed. These trainings have also been requested by local organisations and government agencies for their own staff, such as the by Department of Labour and Social Affairs of Thi Qar Governorate, and workers who have received this training already are being involved in conducting them.¹⁴⁴

134 Ministry of Labour and Social Affairs. (2016, April 18). *Interagency Standard Operating Procedures for Child Protection Case Management in the Kurdistan Region of Iraq*.

135 *Ibid.*

136 Ministry of Labour and Social Affairs. (2017). National policy document for child protection. [translated from Arabic]

137 US State of Department. (2018). Trafficking in persons report 2017.

138 UNFPA. (2016). Child marriage in Kurdistan region – Iraq.

139 UNICEF. (2017). *UNICEF Annual Report 2017 – Iraq*. Iraq: UNICEF.

140 *Ibid.*

141 Chynoweth, S. (2017, October). *Sexual violence against men and boys in the Syria crisis*. UNHCR.

142 Ministry of Labour and Social Affairs. (2017). National policy document for child protection. [translated from Arabic]

143 UNFPA. (2018, January 9). Preventing sexual abuse and exploitation in Iraq. [Press release]

144 *Ibid.*

CHILD PROTECTION, ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

National complaint mechanisms

Children's legal right to seek redress for sexual exploitation is enshrined in the Constitution of Iraq, which states that "every person shall have the right to be treated with justice in judicial and administrative proceedings"¹⁴⁵ and that "litigation shall be a protected and guaranteed right for all."¹⁴⁶ However, there are no special courts or law enforcement agencies in Iraq that specifically deal with sexual exploitation of children or children in general, and thus all SEC-related cases are to be filed in regular civil and criminal courts. Criminal proceedings on SEC are initiated on the basis of "an oral or written complaint submitted to an investigative judge, a judicial investigator, a policeman in charge of a police station, or any crime scene officer" by the child victim, any person legally representing the child, or a person "who knows that the crime has taken place".¹⁴⁷ These crimes can also be notified to the Public Prosecution.¹⁴⁸

Under Iraqi law, a victim below the age of 18 is considered to lack the full legal capacity to make a civil claim, and hence, these can be made only by a legal representative.¹⁴⁹ This can be an obstacle in their access to justice, especially since children in Iraq may be subjected to SEC-related crimes such as early and forced marriage, or exploitation through prostitution by members of their own family. In such cases where there is a conflict of interest between the child victim and his/her legal representative, the judge of investigations is authorised to appoint a custodian to them on their behalf.¹⁵⁰ However this means that the child would have to, alone, seek support from a judge for support to raise civil proceedings, which is highly unlikely.

Iraq has not signed the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, allowing child victims to seek remedy solely through domestic measures. Further, there is no Ombudsman for Children or any such independent mechanism in place for children to make complaints directly.¹⁵¹

Child-sensitive justice

The National Child Protection Policy 2017 has an objective to ensure all institutions which provide services to child victims of abuse and violence meet international guidelines for safety and protection in terms of organisation of the built environment and operating protocols.¹⁵² These institutions include the Juvenile Police Service, the Observatory for Pre-Trial Juveniles, post-trial rehabilitation facilities, Family Protection Units and other specialized centers.

As of now, the Criminal Code contains some provisions which may be applied to enable child-sensitive justice. It allows for in-camera proceedings in certain cases, and for trials to be held in private prohibiting anyone connected with the case to attend "for reasons of security or maintaining decency".¹⁵³ Statements of child victims and witnesses are to be recorded solely for the purpose of evidential enquiry, and only children over the age of 15 are required to give evidence under oath.¹⁵⁴ The investigative judge or judicial investigator must note in the record any factor that may affect the fitness of an individual to give evidence, including his/her age and psychological condition.¹⁵⁵ If there is any reason preventing an individual from attending the proceedings, the investigative judge or judicial investigator should go to the witness's current place of residence to record his/her evidence.¹⁵⁶

However, the implementation of these provisions is doubtful, and there is an absence of publically available case records. On the contrary, there is evidence of victims of trafficking being asked to

¹⁴⁵ *Constitution of Iraq*. (2005). Art. 19(6).

¹⁴⁶ *Constitution of Iraq*. (2005). Art. 19(3). (Republic of Iraq).

¹⁴⁷ *Criminal Procedure Code*. (1971). Art. 1(A). (Republic of Iraq).

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*, Art. 11.

¹⁵⁰ *Ibid.*, Art. 5.

¹⁵¹ Ministry of Labour and Social Affairs. (2017). National policy document for child protection. [translated from Arabic]

¹⁵² *Ibid.*

¹⁵³ *Ibid.*, Art. 152.

¹⁵⁴ *Criminal Procedure Code*. (1971). Art. 60(B). (Republic of Iraq).

¹⁵⁵ *Ibid.*, Art. 65.

¹⁵⁶ *Ibid.*, Art. 67.

testify in front of their perpetrators, and of the existence of a poor victim identification system as judges were the only officials who could officially identify and refer a trafficking victim to protection services.¹⁵⁷

As mentioned above, the court is authorised to appoint a legal representative for the child under certain circumstances. In criminal cases their legal representative could be granted legal aid for prosecution of an alleged violation of a constitutionally protected right.¹⁵⁸ However, it appears that there are no provisions that allow for legal aid directly to the child victims of crime. Furthermore, in civil matters, which are generally resorted to for compensation claims, legal aid is only available to the individuals who are unable to afford the financial cost of litigation or appeals.¹⁵⁹ The granting of legal aid is dependent upon the victim's financial status and also the likelihood of success in the proceedings.¹⁶⁰ This remains another obstacle to achieving child-sensitive justice.

Access to recovery and reintegration

There are no specific plans or programmes by the government to support the recovery and reintegration of child victims of SEC in Iraq. A plan to rehabilitate children liberated from ISIL-areas and reintegrate them into their communities was drafted by the government in 2016, and was approved in 2017 by an inter-ministerial council with a budget of approximately 8.4 million USD allocated for its implementation.¹⁶¹ However, the funds were not disbursed and the programme was not launched.¹⁶² Efforts were renewed in 2018, with the Child Welfare Authority organizing a meeting with relevant government bodies and civil society organisations to work on preparing a new joint cooperation plan to set up rehabilitation programmes for children.¹⁶³ There is no further information available on the progress of this plan.

The 2017 National Child Protection Policy outlines in its framework strategies for child victims of violence, abuse and exploitation to receive support and facilitate reintegration into their communities. These include developing services for residential care facilities, development of integrated referral mechanisms between all shelters, detention centers and other institutions and to provide specialised health, social, rehabilitation and psychological services and legal counselling for child victims of sexual violence. Reintegration is to be facilitated through strengthening family reunification and education programmes. A press release from MoLSA confirms the launch of its programmes in accordance with the policy's strategic framework: as of August 2018, MoLSA had begun work in ISIL-liberated areas and areas of displacement on rehabilitating and reintegrating children, and was working on designing non-formal education and vocational training programmes for child victims, as well as a series of awareness sessions in these areas.¹⁶⁴ Additionally, since the launch of the policy, UNICEF has reported improved quality of child protection and gender-based violence case management in five governorates.¹⁶⁵

International and local organisations have played a crucial role in providing recovery and reintegration services, since the onset of the armed conflict in 2014 resulted in an unprecedented number of children in need of emergency assistance which the governments in Iraq and KRI did not have to capacity to respond to.^{166,167} Mobile child protection teams and child friendly spaces were established by these organisations in strategic locations to identify and provide onsite immediate response to children in need. Services provided included psychological first-aid, family tracing and reunification, case management and alternative care, with a substantial amount of technical and financial capacity building resources are provided by UN agencies.¹⁶⁸

157 Department of State, USA. (2018, June). *Trafficking in Persons Report*. 232. Washington D.C.: Department of State, USA.

158 *Constitution of Iraq*. (2005). Art. 19(11). (Republic of Iraq).

159 *The Civil Procedure Code*. (1969). Art. 293. (Republic of Iraq).

160 Ibid.

161 US Department of Labour. (2018, September 20). 2017 Findings on the worst forms of child labour: Iraq. citing email communication from the U.S. Embassy in Baghdad from June 2017

162 Ibid. citing email communication from the U.S. Embassy in Baghdad from March 2018.

163 Ministry of Labour and Social Affairs. (2018, October, 17). *Cooperation between the Child Care Authority and Civil Society Organizations to Provide Services and Programs for Children*. Iraq: Ministry of Labour and Social Affairs.

164 Ministry of Labour and Social Affairs. (2018, August 7). Child Welfare Authority discusses draft Iraqi child protection law. [translated from Arabic].

165 UNICEF. (2017). *UNICEF Annual Report 2017 – Iraq*. Iraq: UNICEF.

166 Triangle Génération Humanitaire. (n.d.). Programmes: Iraq and Iraqi Kurdistan

167 Women Rehabilitation Organization Iraq. (n.d.). Self-resilience and empowerment through integrated CP, GBV, MHPSS, Livelihoods Project in Ninewa, Dohuk, and Erbil Governorates

168 UNICEF. (2017). *UNICEF Annual Report 2017 – Iraq*. Iraq: UNICEF.

Access to compensation

The Criminal Code states that a person who has suffered “direct material or ethical damage” for an offence has the right to bring a civil claim against the accused, which includes compensation for the damage caused.¹⁶⁹ The Criminal Code reiterates that an individual has the right to consult the civil court on compensation for excess damage even after a definitive criminal judgement has been issued.¹⁷⁰ However, it remains unclear whether child victims of sexual exploitation can be included within this ambit. Further, due to limited public access to court records, it is not possible to identify the actual practise relating to compensation mechanisms in Iraq. As of now, there is no separate law or policy that provides compensation to child victims of sexual exploitation.

The 2009 Law No. 20 on Compensation for Victims of Military Operations, Military Mistakes and Terrorist Actions identifies five categories eligible for reparation which includes full or partial disability, injuries and conditions requiring short-term treatment, damage to property and damage affecting employment and study, all of which are caused due to terrorism or activities in the course of the armed conflict.¹⁷¹ Although the scope of the law was expanded in 2015, it still clearly excludes victims subjected to sexual exploitation and violence by armed groups, for instance children trafficked and sold as slaves and those recruited into forced military service.¹⁷²

169 *Criminal Procedure Code*. (1971). Art. 10. (Republic of Iraq).

170 *Ibid.*, Art.18.

171 Clara Sandoval and Miriam Puttick. (2017, November). *Reparations for the Victims of Conflict in Iraq*.17. Iraq: Ceasefire Centre for Civilian Rights and Minority Rights Group International.

172 *Ibid.*

Child, Victims and Survivor Participation

The National Child Protection Policy 2017 was developed through a consultative process involving members of the community, including children.¹⁷³ The framework of the policy outlines strategies to promote children's participation in issues that affect them and to hold discussions with them to propose solutions. Local and national channels are to be developed to facilitate participation. Youth clubs and community centres are to be established in all districts as spaces for discussion, and student committees formed in schools to increase awareness on rights and participation. At the national level, the Iraqi Children's Parliament is to be strengthened to represent all groups of children in Iraq, and the outcomes of its activities and discussions is to influence decisions and policies related to children.¹⁷⁴

The Iraqi Children's Parliament was established in 2004 with the goal of implementing the CRC through child participation. The forum has been active since then, holding its third electoral conference in Baghdad in October 2017. 10 children – 5 girls and 5 boys – between the

ages 11 to 15 were nominated to represent 13 governorates, and elections were held to choose amongst the children nominated for president/ chairman of the council for children.^{175,176} The council is to expand its work by opening more branches of the Children's Parliament in other governorates.¹⁷⁷ The parliament is also represented at wider children's forums in the region, such as the Arab Council for Childhood Development and the Arab Parliament for Children in the League of Arab States.¹⁷⁸

Further, the Ministry of Youth and Sports in Iraq implements programs to establish and train a national volunteer youth corps, to encourage civic engagement on issues of human rights, peace and security through advocacy and discussions.¹⁷⁹ There is no available information about whether SEC-related topics are on the agenda at these forums or trainings. With the government currently developing and implementing policies to alleviate the disastrous effects the conflict has had on children, ensuring the involvement of child victims and survivors could be instrumental in making such policies and programmes more effective.

173 Ministry of Labour and Social Affairs. (2017). National policy document for child protection. [translated from Arabic]

174 *Ibid.*

175 Al-Sabah Al-Jadid (2017, August 23). Iraqi children's parliament calls for support and care. *Newsabab*. [translated from Arabic]

176 Denmark Media Network (2017, October 17). Results of the elections of the Iraqi Child Parliament.

177 *Ibid.*

178 Ministry of Culture. (2015, February 4). Interview with Mohammed Rashid, founder of the Iraqi Child Parliament. [translated from Arabic]

179 UNIRAQ. (n.d.). *Recovery and Resilience Programme – Engaging Youth*. 1. Iraq: United Nations.

Recommendations for Action

INTERNATIONAL AND REGIONAL LEGISLATION, COMMITMENTS AND COORDINATION TO ENDING SEC

- Ratify the third Optional Protocol on a communications procedure;
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Enact provisions in law defining the exploitation of children in prostitution and child sexual abuse materials in compliance with the OPSC, prohibiting all thereof prescribed acts with adequate sanctions;
- Enact a comprehensive law to cover offences of online child sexual exploitation.

NATIONAL RESPONSE TO SEC'S MANIFESTATIONS

- Take legislative measures to criminalise all forms of online child sexual exploitation including the act of 'grooming' children;
- Delete Article 398 of the Penal Code that allow perpetrators to escape justice by marrying their victim;
- Amend the 2012 Law on Trafficking to consider trafficking of children as an offence independently of the means used;
- For the Kurdish region: adopt a trafficking act in conformity with the Palermo Protocol;
- Amend the relevant provisions in the Criminal Code to recognize jurisdictions over crimes committed abroad against victims of Iraqi nationality;
- Criminalize child, early and forced marriage;
- Delete the nonconsummation of the marriage as a condition to invalidate a forced marriage;
- Draft a national plan of action to prevent sexual exploitation in children with specific goals, targets, indicators and timetables.

ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

- Improve national victim identification procedures to clearly identify child victims of sexual exploitation;
- Develop concrete mechanisms to render recover, reintegration and rehabilitation of child victims of sexual exploitation;
- Improve victim-sensitive justice by taking measures to facilitate in-camera proceedings and maintaining anonymity of victims in cases of sexual exploitation of children;
- Encourage access to compensation, rehabilitation and other means of reparation for child victims of sexual exploitation.

CHILD, VICTIM AND SURVIVOR PARTICIPATION

- Take steps to ensure representation of child victims and survivors in forums for child participation such as the Iraqi Children's Parliament.

RESEARCH NEEDS AND AGENDA

- Maintain a comprehensive database on all cases of sexual exploitation of children;
- Carry out qualitative and quantitative research to identify the patterns and trends surrounding sexual exploitation online and in the context of travel and tourism.

Acronyms

CEFM	Child, early and forced marriage
CRC	Convention on the Rights of the Child
CSAM	Child sexual abuse material
IDP	Internally displaced people
IQD	Iraqi Dinar
ISIL	Islamic State of Iraq and the Levant
KRI	Kurdistan Region of Iraq
KRG	Kurdistan Regional Government
MENA	Middle East and North Africa
MOI	Ministry of Interior
MoLSA	Ministry of Labour and Social Affairs
OCSE	Online child sexual exploitation
OPSC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
SECTT	Sexual exploitation of children in travel and tourism
SDG	Sustainable Development Goals
UNAMI	United Nations Assistance Mission for Iraq
UNICEF	United Nations Children's Fund
USD	United States Dollar



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