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Gender-Based Violence and Discrimination Against Women and Girls in Iraq

A Report for the United Nations Committee on the Elimination of Discrimination Against Women

Submitted for the formulation of the List of Issues and Questions for the review of Iraq's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women during its review of Iraq during the Pre-Sessional Working Group to the 74th Session to be held in March 2019.

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Table of Contents

I. Introduction	i
II. Sexual and Gender Based Violence in Iraq	
(Articles 1-3, & 6)	1
Honor Killings	1
Response by the Government of Iraq.....	2
Forced, Temporary, and Early Marriage.....	3
Response by the Government of Iraq.....	3
Trafficking and Forced Prostitution.....	4
Response by the Government of Iraq.....	5
Suggested Questions to the Government of Iraq:.....	5
II. Sexual Violence and Gender-Based Crimes Committed by ISIL	
(Articles 2, 3, 5, 6, & 15).....	6
Background on ISIL Gender-Based Crimes: Rape, Torture and Murder Based on Prescribed Gender Roles.....	6
The Government of Iraq’s Failure to Prosecute Sexual and Gender-Based Crimes Committed by ISIL	8
Response by the Government of Iraq.....	9
Suggested Questions to the Government of Iraq:.....	9
III. Access to Safe Shelter for Persons Fleeing Sexual and Gender-Based Violence, Including Domestic Violence and Honor Killings (Articles 2, 3, 5 & 6)	10
Response by the Government of Iraq.....	11
Suggested Questions to the Government of Iraq:.....	12
IV. Women Denied Civil Status Identification Documents (Articles 1-3, & 9).....	12
Suggested Questions to the Government of Iraq:.....	14
V. Discrimination Against Women with Disabilities in Iraq (Articles 3, 12)	15
Suggested Questions to the Government of Iraq:.....	16
VI. Discrimination Against Afro-Descendant Iraqi Women (Articles 3-4, 8, & 10-11)	16
Lack of Adequate Living Conditions, Education, and Employment for Afro-Iraqi Women ...	17
Lack of Access to Political Participation for Afro-Iraqi Women	18
Suggested Questions to the Government of Iraq:.....	19

I. Introduction

This report¹ is intended to supplement the fifth periodic report submitted by Iraq to the UN CEDAW Committee for its review of Iraq during the Pre-Sessional Working Group to the 74th Session. Several areas of concern related to the status of the rights of women and girls in Iraq are addressed herein, including the prevalence of gender-based violence, impunity for human rights violations against women and girls, and discriminatory legal provisions. This report offers specific questions for the CEDAW Committee to ask the Government of Iraq so that it may adequately assess the Iraqi government's compliance with its human rights obligations under CEDAW.

The Government of Iraq has failed in its obligation under the CEDAW to take proper measures to protect and promote women's human rights, to ensure effective remedies in cases of violations, and to prevent systemic impunity. While all Iraqis face daily insecurity due to terrorism and civil strife, women and girls experience additional and specific abuse because of their gender. In the aftermath of attacks by the Islamic State of Iraq and the Levant (ISIL), the Government has failed to adequately respond to and address ISIL's gender-based crimes. Comprehensively addressing the rights and needs of women and girls fleeing ISIL requires addressing pre-existing discrimination embedded in Iraq's laws and social norms.

Despite numerous provisions under Iraqi law that aim to protect women's human rights, egregious gender-based violence remains widespread, including domestic violence, "honor" killings, rape, and sexual assault. Forced, under-aged, and temporary marriages are a reality for many Iraqi women and girls. Additionally, Afro-descended Iraqi women face economic, social, and political exclusion due to intersecting gender and racial discrimination. Women with disabilities in Iraq are marginalized due to intersecting gender and disabilities stigma and discrimination, and the Government of Iraq has failed to adequately provide basic services.

We hope that the findings in this report will be useful to the Committee and serve as a catalyst for further advocacy efforts.

¹ This Report was written by the Organization for Women's Freedom in Iraq (OWFI), ASUDA, the Human Rights and Gender Justice (HRGJ) clinic at the City University of New York (CUNY) School of Law and MADRE, in collaboration with Iraqi women's and human rights organizations and activists.

II. Sexual and Gender Based Violence in Iraq (Articles 1-3, & 6)

Honor Killings

Recent years have seen an increase in “honor” killings of women in Iraq as a result of a variety of factors including weakening institutions, an increase in violence from armed militias, and the reinforcement of tribal and religious norms.² While “honor” killings are often not reported to authorities or are disguised as accidents or suicides, making it difficult to obtain official statistics,³ it is estimated that several hundreds of Iraqi women and girls are killed as a result of “honor” crimes each year.⁴ In 2017, 272 cases of “honor” crimes and 3,400 domestic violence cases were reported to the police and referred to courts.⁵ In the aftermath of the conflict with ISIL, many women are still at risk of “honor” killing as they return to their homes for perceived “dishonor” they bring to their families and communities.⁶ For example, women victims of sexual and gender-based violence that were unjustly incarcerated under false charges of engaging in prostitution are forced to remain at a shelter in Basra, unable to return home because they have been threatened with “honor” killings by their families.⁷ Women in prominent positions such as politicians, journalists, doctors, and human rights defenders are also targeted for “honor” killings for defying gender roles and taking on active public positions.⁸ Between August and September 2018 four prominent Iraqi women were assassinated, including the social media star Tara Al-Fares and women’s rights activist Suad al-Ali.⁹

Iraqi Penal Code Articles 128,¹⁰ 130,¹¹ and 409,¹² allow for mitigated sentences for violent acts,

² Lisa Davis, *Iraqi Women Confronting ISIL: Protecting Women’s Rights in the Context of Conflict*, 22 SW. J. INT’L L. 27, 8 (2016).

³ Special Rapporteur on extrajudicial, summary or arbitrary executions, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, para. 40, UN Doc No. A/HRC/38/44/Add.1 (June 5, 2018); Minority Rights Group International & Ceasefire Centre for Civilian Rights, *The Lost Women of Iraq: Family-based violence during armed conflict*, p. 27 (October 2015); Fazel Hawramy, *Buried alive by her family, Iraqi woman fears for her life as murders go unpunished*, Reuters (July 12, 2017).

⁴ UN Special Rapporteur on extrajudicial, summary or arbitrary executions, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, para. 40, UN Doc No. A/HRC/38/44/Add.1 (June 5, 2018).

⁵ UN Assistance Mission for Iraq (UNAMI) & UN Office of the High Commissioner for Human Rights (OHCHR), *Report of Human Rights in Iraq July to December 2017*, p. 12 (2018).

⁶ Lisa Davis, *Iraqi Women Confronting ISIL: Protecting Women’s Rights in the Context of Conflict*, 22 SW. J. INT’L L. 27, 8 (2016); Iraqi Women Network (IWN), Rafidain Women Coalition (RWC), et.al., *The Mid Term/after 2 Years NGOs Report to the CEDAW Committee in Review to COs issued by the Committee after 57th session 2014 for Iraq: Iraqi Women in Armed Conflict and post conflict Situation*, p. 8, Shadow Report submitted to the CEDAW Committee (2016) (“Coalition Mid Term Report”).

⁷ UNAMI & OHCHR, *Report of Human Rights in Iraq July to December 2017*, p. 13 (2018).

⁸ Ceasefire Centre for Civilian Rights & Minority Rights Group International, *No Place to Turn: Violence against women in the Iraq conflict*, p. 17 (February 2015).

⁹ Martin Chulov, *Deaths of high-profile Iraqi women spark fear of conservative backlash*, The Guardian (October 2, 2018); Megan Specia, *A Social Media Star Is Shot Dead in Baghdad: Iraqis Fear a Trend*, The New York Times (September 29, 2018); Zahra Ali, *After several high-profile murders in Iraq, here’s what headlines missed about their cause*, The Washington Post (October 15, 2018).

¹⁰ UN High Commissioner for Refugees (UNHCR), *Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq*, p.159 n. 918 (2012), stating: “Article 128(1) of the Law No. (111) of 1969, Penal Code, reads: ‘Legal excuse either discharges a person from a penalty or reduces that penalty. Excuse only

including homicide, committed for so-called “honourable motives.”¹³ In 2002, Law No 14 amended the Iraqi Penal Code, stating that the killing of women for reasons of “honor” is no longer a legal excuse that may lessen the punishment for purposes of the applications of Articles 128, 130, 131. However, the law does not provide any guidance on how to define the term “honourable motives,” leaving the door open for wide interpretation and abuse that allows “honor” killings to continue with impunity.

In addition to a lack of legal protection against “honor” killings, police are unwilling to investigate cases due to the social acceptance of “honor” killings.¹⁴ Data on the rates of convictions or trials of perpetrators of “honor” crimes is severely lacking.¹⁵ This culture of impunity prevents women from reporting gender-based violence due to fears of indifference from authorities or violent retaliation triggering an “honor”-based crime.¹⁶

Response by the Government of Iraq

Given the increase in “honor” killings in recent years¹⁷ it remains clear that the government has failed to adopt a strategy to eliminate the practice of “honor” killings. While we commend the Government’s recent steps to launch the National Strategy to Combat Violence Against Women in Iraq in coordination with UNAMI and UNFPA,¹⁸ the lack of government will to pass much needed legislation to address gender-based violence, such as the pending Family Violence Protection Law, contravenes this national strategy. Moreover, in the Iraqi government’s report to the Committee, it claims that the phrase “honourable motives” used in the Penal Code covers all

exists under conditions that are specified by law. Notwithstanding these conditions, the commission of an offence with honourable motives or in response to the unjustified and serious provocation of a victim of an offence is considered a mitigating excuse.”.

¹¹ Id. at 159 n. 918, stating: “Article 130 of the Penal Code reads: ‘If there exists a mitigating excuse for a felony for which the penalty is death, the penalty shall be reduced to life imprisonment or imprisonment for a term of years or detention for a period of not less than 1 year. If the penalty is life imprisonment or imprisonment for a term of years; the penalty shall be reduced to a period of detention of not less than 6 months unless otherwise stipulated by law.’”.

¹² Id. at 159 n. 919, stating: “Article 409 of the Penal Code reads: ‘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 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 defense against any person who uses this excuse nor do the rules of aggravating circumstance apply against him.’”.

¹³ Id. at 159 n. 920, noting the lack of a definition for “honourable motives” under the Penal Code results in a “very broad mitigating excuse.”.

¹⁴ UNAMI & OHCHR, *Report of Human Rights in Iraq July to December 2017*, p. 11 (2018).

¹⁵ The most recent data from UNAMI is from 2014, which confirmed that overall rates of incarceration are low and noted only one “honor” killing trial from August 2014. UNAMI, *Report on Human Rights in Iraq: January – June 2014*, p.14 (August 2014).

¹⁶ Interview with Iraqi women’s organization representative, Istanbul, Turkey, January 2015 (on file with MADRE) (name omitted for safety reasons); UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq*, pp. 34-35 (2012).

¹⁷ Lisa Davis, *Iraqi Women Confronting ISIL: Protecting Women’s Rights in the Context of Conflict*, 22 SW. J. INT’L L. 27, 8 (2016); Coalition Mid-Term Report, pp. 4, 13; Interview with Iraqi activists, Istanbul, Turkey, October 4, 2016 (on file with MADRE) (names omitted for safety reasons); UNAMI & OHCHR, *Report of Human Rights in Iraq July to December 2017*, p. 12 (2018).

¹⁸ UN Population Fund (UNFPA) & UNAMI, *Government of Iraq and United Nations Launch National Strategy to Combat Violence Against Women in Iraq* (December 9, 2018).

“honourable motives” and does not exclusively relate to crimes affecting women and as such cannot be considered discriminatory against women.¹⁹ This interpretation fails to acknowledge the culture of impunity created by allowing for mitigated sentencing when crimes are committed for so-called “honourable motives.” Without tackling the underlying cultural norms and customs that permit “honor” killings, and impunity for “honor” killers,²⁰ Articles 128, 130, 131, and 409 of the Iraqi Penal Code will continue to allow impunity for “honor” crimes committed against women.

Forced, Temporary, and Early Marriage

An estimated 24 percent of Iraqi girls marry before the age of 18,²¹ and a 2015 study of marriages in nine governorates across Iraq found that 33.9 percent of marriages were conducted outside the courts system, of which 22 percent involved girls younger than 14 years old.²² Forced, temporary, and early marriage has become a strategy of economic survival for many of Iraq’s poor families living in a context of ongoing conflict and insecurity, who may decide to marry their daughters off early with the idea that this spares them from financial and security burdens.²³

Lack of access to education and economic opportunities also leave women and girls unable to support themselves financially and forced into unwanted marriages in the hopes that they can provide better economic opportunities for their families in those marriages. About 51 percent of forced marriages analyzed in a 2015 study were conducted for economic incentives.²⁴ There has also reportedly been a resurgence of the practice of *fasliyya*, marrying a woman off to resolve a dispute, in Southern Iraq where 11 women were forced to marry in such an agreement in Basra in 2015.²⁵

Response by the Government of Iraq

The Iraqi government notes in its report to the Committee that the Personal Status Code (1959) protects against forced and early marriages.²⁶ However, the Personal Status Code allows youth as

¹⁹ Government of Iraq, *Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018*, paras. 151-152, UN Doc. CEDAW/C/IRQ/7 (August 15, 2018).

²⁰ Interview with Iraqi women’s organizations representatives, Istanbul, Turkey, January 2015 (on file with MADRE) (names omitted for safety reasons); Freedom House, *Freedom in the World 2018 – Iraq*, Section G3 (April 5, 2018), available at <https://freedomhouse.org/report/freedom-world/2018/iraq>.

²¹ UNICEF, *The State of the World’s Children 2016*, p. 151 (2016).

²² Miriam Puttick, Minority Rights Group International & Ceasefire Centre for Civilian Rights, *The Lost Women of Iraq: Family-based violence during armed conflict*, p. 23 (November 2015).

²³ Interview with Iraqi human rights activist, November 30, 2016 (on file with MADRE) (name omitted for safety reasons); Oxfam and International Alert, *Now is the Time: Research on Gender Justice, Conflict and Fragility in the Middle East and North Africa*, p. 100 (2017).

²⁴ Miriam Puttick, Minority Rights Group International & Ceasefire Centre for Civilian Rights, *The Lost Women of Iraq: Family-based violence during armed conflict*, p. 21 (November 2015).

²⁵ *Id.* at 24.

²⁶ Government of Iraq, *Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018*, paras. 148-149, UN Doc. CEDAW/C/IRQ/7 (August 15, 2018).

young as 15-years-old to marry with a judge's authorization.²⁷ While forced marriages may be declared null and void under the Personal Status Code, this is only true if the marriage has not been consummated,²⁸ providing further consequences for survivors of marital rape. As recently as January 2017 members of the Council of Representatives in Iraq submitted amendments to the Personal Status Code that would have lowered the age of marriage.²⁹ This followed a similar unsuccessful attempt to amend the Personal Status Code in 2014 to set the legal age for marriage as nine for girls and allow for temporary marriages.³⁰ Advocates fear that similar amendments may arise again in parliament.³¹

The Penal Code does not contain provisions that offer protection for women who decide to turn to the courts, leaving them vulnerable to further discrimination or attacks by members of their families or communities.³² In addition, because many forced, temporary, and early marriages are conducted outside the courts, women and girls are often unable to take advantage of legal remedies to escape the marriages.³³ Unregistered marriages conducted outside the court system do not fall under the jurisdiction of the courts, and many women do not have documents to prove they are in an unwanted marriage.³⁴

Trafficking and Forced Prostitution

Due to the Government's inadequate data collection, the number of women and girls trafficked in Iraq is unknown.³⁵ The Iraqi government reported 266 potential trafficking cases in 2017, down from 314 in 2016, of which 68 were suspected to be sex trafficking cases.³⁶ Trafficking victims risk arrest, criminal prosecution, imprisonment, and deportation for prostitution if they report being trafficked.³⁷ The Government will not initiate investigations into trafficking cases unless victims press charges, however most do not out of fear of retaliation or because they do not know the identity of the trafficker.³⁸ Moreover, after reporting cases of trafficking police rarely initiate investigations against suspected traffickers or brothels, leading advocates to suspect government complicity in trafficking activities.³⁹ Government authorities further lack the sensitivity to deal with trafficking cases and in some cases have verbally abused trafficking

²⁷ Iraq Personal Status Law No. 188, Art. 8.

²⁸ Id. at Art. 9.

²⁹ UNAMI & OHCHR, *Report of Human Rights in Iraq July to December 2017*, p. 12 (2018).

³⁰ Id. at 13. See also, Haifa Zangana, *Ja'fari law takes the Iraqi government's violation of women's rights to a new level* (March 14, 2014); Human Rights Watch, *Iraq: Don't Legalize Marriage for 9-year-olds* (March 11, 2014).

³¹ Human Rights Watch, *Iraq: Parliament Rejects Marriage for 8-Year-Old Girls* (December 17, 2017).

³² UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq*, p. 36 (2012).

³³ Miriam Puttick, Minority Rights Group International & Ceasefire Centre for Civilian Rights, *The Lost Women of Iraq: Family-based violence during armed conflict*, p. 23 (November 2015).

³⁴ Id.

³⁵ US Department of State, *Trafficking in Persons Report 2018*, p. 232 (2018); Minority Rights Group International & Ceasefire Centre for Civilian Rights, *No Place to Turn: Violence against women in the Iraq conflict*, p. 31 (February 2015).

³⁶ US Department of State, *Trafficking in Persons Report 2018*, p. 231 (2018).

³⁷ Id. at 232.

³⁸ Id. at 231.

³⁹ Id. at 231-232; Minority Rights Group International & Ceasefire Centre for Civilian Rights, *No Place to Turn: Violence against women in the Iraq conflict*, p. 33 (February 2015).

survivors.⁴⁰ Despite legal requirements to provide services to victims of trafficking, the Iraqi government often fails to provide such services, leaving victims with limited protection and support.⁴¹

Response by the Government of Iraq

Despite claims and possible efforts by the Iraqi Government to combat trafficking of women and girls,⁴² trafficking survivors in Iraq still lack access to basic protection, services and justice. Within the past year, local experts in Iraq reported a significant number of prosecutions against sex trafficking survivors.⁴³ An inter-departmental committee on human trafficking has also noted that first responders and judges remain unaware of human trafficking legislation and do not enforce the laws appropriately.⁴⁴ In addition, as of December 2017 local advocates reported that the Government-run shelter for trafficking victims remained unused.⁴⁵

Suggested Questions to the Government of Iraq:

1. What steps is the Government of Iraq taking to repeal provisions in the Penal Code that allow for mitigated sentencing for crimes committed for “honourable motives”?
2. What measures is the Government of Iraq taking to implement the National Strategy to End Violence Against Women, and how will it address cultural and traditional attitudes that permit “honor” killings?
3. What measures is the Government of Iraq taking to strengthen protections against forced, temporary and early marriages in its Personal Status Code, including eliminating the exception to annulment of forced marriages for those that have been consummated? What other measures will the Government of Iraq take to prevent and address forced, temporary, and early marriages?
4. What measures is the Government of Iraq taking to ensure that survivors of trafficking have access to basic protection and services as required under the Human Trafficking Act (2012)?
5. What actions is the Government of Iraq taking to ensure the Family Violence Protection Law is passed, permitting NGO-run shelters for survivors of gender-based violence and trafficking?

⁴⁰ Minority Rights Group International & Ceasefire Centre for Civilian Rights, *No Place to Turn: Violence against women in the Iraq conflict*, p. 33 (February 2015).

⁴¹ US Department of State, *Trafficking in Persons Report 2018*, p. 232 (2018).

⁴² Government of Iraq, *Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018*, paras.167-169 and 172-179, UN Doc. CEDAW/C/IRQ/7 (August 15, 2018).

⁴³ US Department of State, *Trafficking in Persons Report 2018*, p. 232 (2018).

⁴⁴ Finnish Immigration Service, *Overview of the Status of Women Living Without a Safety Net in Iraq*, p. 28 (May 22, 2018).

⁴⁵ US Department of State, *Trafficking in Persons Report 2018*, p. 232 (2018).

6. What steps is the Government of Iraq taking to ensure survivors of sex trafficking are not criminalized and wrongly prosecuted for prostitution or other crimes?

II. Sexual Violence and Gender-Based Crimes Committed by ISIL (Articles 2, 3, 5, 6, & 15)

Background on ISIL Gender-Based Crimes: Rape, Torture and Murder Based on Prescribed Gender Roles

Under ISIL occupation in Iraq, women, girls, men and boys including LGBTIQ persons, and those otherwise perceived as stepping outside of traditional gender roles were targeted for violence on a staggering scale.⁴⁶ ISIL fighters tortured women doctors and nurses who have not complied with rigid dress codes when doing so interfered with the performance of their medical duties.⁴⁷ They have executed women who resisted forced marriage or who served as politicians.⁴⁸ Men believed to be gay have been thrown off buildings.⁴⁹ Women believed to be lesbians have been issued death warrants.⁵⁰ ISIL has killed youth because of their alternative forms of personal expression or refusal to join their militia, labeling them “faggots.”⁵¹ Men who could not or would not grow beards were tortured.⁵² These crimes are evidence of a systematic persecution of persons based on gender.

ISIL devoted significant numbers of written policies and propaganda to defending and promoting gender-based persecution and discrimination, including violent repression of women and of anyone falling outside of its prescribed gender roles. The policies dictated behaviors, activities, and attributes assigned to women and men, and to girls and boys. ISIL’s written dogma positioned women as enslaved chattel or sub-human; or as wives, mothers or daughters, relegated to the domestic sphere to be used to build the caliphate.⁵³ The organization focused on controlling and containing women’s and girls’ bodies, and promoted and justified some of the most severe and heinous forms of gender-based violence, including rape, sexual enslavement,

⁴⁶ See Human Rights and Gender Justice (HRGJ) Clinic, City University of New York (CUNY) Law School, MADRE & the Organization of Women’s Freedom in Iraq (OWFI), *Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq* (2017), available at <https://www.madre.org/sites/default/files/PDFs/CUNY%20MADRE%20OWFI%20Article%2015%20Communication%20Submission%20Gender%20Crimes%20in%20Iraq%20PDF.pdf> [http://perma.cc/9S4X-4BR2] [hereinafter HRGJ Clinic et al., Article 15 Communication]; See also, Lisa Davis, *Reimagining Justice for Gender-Based Crimes at the Margins: New Legal Strategies for Prosecuting ISIS Crimes Against Women and LGBTIQ Persons*, 24 Wm. & Mary J. Women & L. 513 (2018).

⁴⁷ See, *supra* note 46, HRGJ Clinic et al., Article 15 Communication, paras. 2 & 58.

⁴⁸ Id. at paras. 2 & 55.

⁴⁹ Id. at paras. 67, 70, & 84.

⁵⁰ Id. at para. 2.

⁵¹ Id. at para 47; See also, Lisa Davis, *Reimagining Justice for Gender-Based Crimes at the Margins: New Legal Strategies for Prosecuting ISIS Crimes Against Women and LGBTIQ Persons*, 24 Wm. & Mary J. Women & L. 513 (2018).

⁵² See, *supra* note 46, HRGJ Clinic et al., Article 15 Communication, para 48.

⁵³ Id. at para. 46.

forced marriage, trafficking, and extreme social control.

UNAMI has reported that numerous executions of women in Mosul and other ISIL-controlled areas have taken place, some after perfunctory “trials.”⁵⁴ ISIL abducted and killed numerous female public professionals, including doctors, lawyers, and politicians, often trying them in self-appointed ISIL courts before publicly executing them. ISIL fighters beat women doctors and nurses for removing their *niqab* and gloves in order to perform their medical duties.⁵⁵

ISIL employed sexual violence as a strategic weapon and “as a tactic of terror, a core element of their ideology and modus operandi.”⁵⁶ ISIL subjected Yazidi, Muslim, Christian and Turkmen women in Iraq to human rights violations, including sexual and gender-based violence.⁵⁷ ISIL fighters executed at least 2,000 Yazidis, both men and women, and captured another 6,417.⁵⁸ Yazidi women were subjected to imprisonment, organized rape, sexual slavery, sexual assault, torture, forced marriage, and forced labor.⁵⁹ Women were forced to convert to Islam or risk being killed if they refused, and children were forced to take up arms and fight.⁶⁰ Girls under 8 years old were allowed to remain with their mothers, while any girls older than 8 were removed from their families and held captive under ISIL control.⁶¹ Victims witnessed widespread killing and executions,⁶² were deprived of food, and beaten throughout their period of captivity.⁶³ Of the 6,417 abducted Yazidis, 3,207 of them have escaped, with the remaining half still missing and unaccounted for.⁶⁴

Sexual enslavement of women and girls was a hallmark policy of ISIL’s control in Iraq,⁶⁵ and was used as a propaganda tool for recruiting and maintaining ISIL fighters.⁶⁶ ISIL created an extensive system to profit off the sale of captured women and girls.⁶⁷ Women were bought, sold and traded within an organized system that included sales contracts notarized by ISIL-run

⁵⁴ Id. at para. 55.

⁵⁵ See e.g., Nawzat Shamdeen, *Veils, Gloves and Violence New Extremist Rules See Women Disappear from Mosul’s Streets*, NIQASH, (August 24, 2014).

⁵⁶ European Parliament Members’ Research Service, *Fighting conflict-related sexual violence. Briefing*, pp. 4 & 9 (December 2016).

⁵⁷ Kristie McCrum, *Captured ISIS Fighter Claims Fellow Jihadis Were Rewarded with Slave Girls for Their Loyalty to Their Cause*, *Mirror* (September 29, 2016); Human Rights Watch, *World Report 2016: Iraq*, pp. 319-326 (2016); Human Rights Watch, *Iraq: Sunni Women Tell of ISIS Detention, Torture, Describe Forced Marriage, Rape* (February 20, 2017).

⁵⁸ UNAMI, *Statement by Mr. György Busztin, Deputy Special Representative of the Secretary-General at the Commemoration of Attacks against Yazidi Baghdad, 3 August 2017 [EN/AR]* (August 3, 2017).

⁵⁹ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, p. 56 (2017).

⁶⁰ Id.

⁶¹ OHCHR & UNAMI, *A Call for Accountability and Protection: Yazidi Survivors of Atrocities Committed by ISIL*, p.14 (August 2016).

⁶² Id. at 12.

⁶³ Id. at 15.

⁶⁴ FIDH / KINYAT Organization for Documentation, *Iraq: Sexual and gender-based crimes against the Yazidi community: the role of ISIL foreign fighters*, p. 5 (2018).

⁶⁵ Rukmini Callimachi, *ISIS Enshrines a Theology of Rape*, *New York Times* (August 13, 2015).

⁶⁶ Kristie McCrum, *Captured ISIS Fighter Claims Fellow Jihadis Were Rewarded with Slave Girls for Their Loyalty to Their Cause*, *Mirror* (September 29, 2016).

⁶⁷ Organization of Women’s Freedom in Iraq (OWFI), HRGJ Clinic of CUNY School of Law, and MADRE, *Seeking Accountability and Demanding Change: A Report of Women’s Human Rights Violations in Iraq under the UN Convention Against Torture*, pp. 28-29 (October 2015).

courts.⁶⁸ The average sale for girls 9 years old or younger was about \$170 US dollars each; girls and young women ages 10-20 years old cost about \$130 and those between 20-30 years old are sold for about \$90.⁶⁹

The Government of Iraq's Failure to Prosecute Sexual and Gender-Based Crimes Committed by ISIL

Prosecutions of ISIL fighters are fast-tracked under Iraq's counter-terrorism law, which carries a death penalty sentence. Sentencing hearings last on average about 10 or 20 minutes.⁷⁰ Convictions are often based on ties to ISIL, rather than on the specific nature and type of crimes committed.⁷¹ This low bar for mass conviction means that courts are not investigating the most egregious crimes. Justice actors are also not distinguishing between the guilty and the victims in some situations, with some perpetrators going free and some victims—including women forced into marriages with ISIL fighters—receiving the death penalty. No effort is being made to inform victims of when or where alleged perpetrators are being brought to trial, giving victims no opportunity to participate.⁷²

Transitional justice in Iraq must meaningfully account for the suffering of the vast numbers of women and girls who were raped and enslaved, in order to send the message that gender-based violence is unacceptable, that it will not occur with impunity, and that survivors' rights will be enforced. Iraqis need fair and transparent justice to rebuild trust in state institutions, prevent future mass atrocities and lay the groundwork for sustainable peace.

Local Iraqi civil society organizations, as well as the international community, are calling for transparent and fair trials that acknowledge the sexual and gender-based crimes committed by ISIL and the impacts they have on victims.⁷³ This was echoed in the UN Secretary-General's recommendation in his annual report on conflict-related sexual violence.⁷⁴

⁶⁸ U.S. Department of State, *Iraq: 2016 trafficking in persons report*, p. 207 (2016).

⁶⁹ Mah-Rukh Ali, *ISIS and Propaganda: How ISIS Exploits Women*, p. 13 n. 96, Reuters Institute (2015) (citing: Jamal Abdul-Alim, *ISIS 'manifesto' Spells Out Role for Women*, The Atlantic (March 8, 2015)).

⁷⁰ *Open Letter to the U.N. Security Council on the Government of Iraq's Prosecutions of ISIS Fighters* (June 2018), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraqs-prosecutions>; Margaret Coker and Falih Hassan, *A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects*, The New York Times (April 17, 2018).

⁷¹ *Open Letter to the U.N. Security Council on the Government of Iraq's Prosecutions of ISIS fighters* (June 2018), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraqs-prosecutions>.

⁷² *Open Letter to the U.N. Security Council on the Government of Iraq's Prosecutions of ISIS Fighters* (June 2018), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraqs-prosecutions>; Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, p. 54 (2017).

⁷³ *Open Letter to the U.N. Security Council on the Government of Iraq's Prosecutions of ISIS Fighters* (June 2018), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraqs-prosecutions>.

⁷⁴ I call upon the Government [of Iraq] to ensure that offenses of sexual violence are prosecuted as standalone crimes, including in the context of terrorism trials, and that services, including shelters operated in collaboration with women's civil society groups, are protected and scaled up as part of efforts to ensure the socioeconomic reintegration of women and children released from ISIL captivity and to refrain from recording prejudicial

Response by the Government of Iraq

Though the Iraqi government acknowledges the sexual and gender-based violence that some women faced under ISIL, particularly the targeting of Yazidi women,⁷⁵ it has not acknowledged nor provided accountability for ISIL crimes amounting to gender-based persecution. Nor have they acknowledged such crimes committed against LGBTI persons. Without acknowledgement and accountability for the full range of crimes and the gender discriminatory basis on which many of them were committed, justice cannot be obtained for victims and communities cannot rebuild. The Government of Iraq should acknowledge crimes committed by ISIL if it hopes to support its citizens in creating sustainable peace.

Suggested Questions to the Government of Iraq:

1. What efforts is the government taking to hold ISIL fighters accountable for sexual and gender-based crimes?
2. What measures is the Government of Iraq taking to acknowledge the genocide, crimes against humanity and war crimes committed by ISIL in Iraq?
3. What measures is the Government of Iraq taking to support the inclusion of sexual and gender-based crimes and other internationally recognized crimes in prosecutions of ISIL fighters?
4. What measures is the Government of Iraq taking to ensure that domestic trials are conducted under international supervision, since these trials concern an international terrorist organization?
5. What measures is the Government of Iraq taking to retry those who underwent 10-minute trials to ensure fair justice?
6. What measures is the Government of Iraq taking to ensure punishments proportionately fit the crimes committed?
7. What measures is the Government of Iraq taking to ensure the safety of witnesses and victims participating in trials or filing for assistance from any retaliation?

information on birth certificates. UN Secretary-General, *Report of the Secretary-General on conflict-related sexual violence*, para. 46, UN Doc S/2018/250 (March 23, 2018).

⁷⁵ Government of Iraq, *Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018*, para. 11, UN Doc. CEDAW/C/IRQ/7 (August 15, 2018).

III. Access to Safe Shelter for Persons Fleeing Sexual and Gender-Based Violence, Including Domestic Violence and Honor Killings (Articles 2, 3, 5 & 6)

Despite repeated calls for policy change from international human rights bodies,⁷⁶ in central and southern Iraq, it is against public policy for Iraqi NGOs to provide shelter to women escaping domestic violence, attempted “honor” killings, trafficking or other forms of gender-based violence. NGO-run shelters operate in an undefined legal framework and the NGOs who run them are cautious about publicizing their services. In practice, the Government has criminalized NGO-run shelters that provide protective services to victims fleeing violence.

Law No. 28 of 2012 on Combating Trafficking in Persons, states that the Ministry of Labor and Social Affairs should create shelters to assist the victims of human trafficking and exploitation.⁷⁷ Government officials have interpreted this policy to mean that only the government can run shelters.⁷⁸ Consequently, NGO-run shelters and their service providers are not only vulnerable to police raids, but they also lack protection from threats of violence by extremist groups.⁷⁹ The ban puts women at risk of torture and death.⁸⁰ If women are discovered being housed in a privately-run shelter, police may send survivors back to their families, who they are fleeing in the first place. This means it is not only the lack of available shelter, but the policy prohibiting privately-operated shelters itself that puts women and marginalized people at risk of torture or death.

Despite this repression, a few women’s rights organizations continue to provide safe housing, illegally and clandestinely, to those fleeing domestic violence, “honor” killing threats, and other forms of gender-based violence. Iraqi NGOs and women’s rights defenders seeking to assist women and girls encounter regular harassment, arbitrary surveillance, and warrantless searches. This harassment not only puts staff and residents at risk, but it forces them to routinely relocate, avoiding unwanted attention from neighbors who have on occasion mistaken safe houses for brothels. One Iraqi women’s rights activist explained, “Shelters are thought of as encouraging

⁷⁶ See UN Committee Against Torture, *Concluding Observations on the Initial Report of Iraq*, paras. 23, 24 (d), UN Doc. CAT/C/IRQ/CO/1 (September 7, 2015); UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, paras. 25 & 26(a), UN Doc. CCPR/C/IRQ/CO/5 (December 3, 2015); UN Security Council Informal Experts Group on Women, Peace and Security, *Republic of Iraq*, UN Doc. S/2016/683 (April 29, 2016); UN Security Council, *Letter dated 22 December 2016 from the Permanent Representatives of Spain and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General*, UN Doc. S/2016/1104 (December 27, 2016); Special Rapporteur on extrajudicial, summary or arbitrary executions, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, paras. 18 (kk), 43, and 44, UN Doc. A/HRC/38/44/Add.1 (June 5, 2018).

⁷⁷ Law No. 28 of 2012 Combating Trafficking in Persons, Article 11 (2012).

⁷⁸ *Open Letter to the U.N. Security Council on the Government of Iraq’s NGO Shelter Policy* (October 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>

⁷⁹ Interview with Iraqi women’s organizations representatives, Istanbul, Turkey, January 2014 (on file with MADRE) (names omitted for safety reasons).

⁸⁰ Organization of Women’s Freedom in Iraq (OWFI), HRGJ Clinic of CUNY School of Law, and MADRE, *Seeking Accountability and Demanding Change: A Report of Women’s Human Rights Violations in Iraq under the UN Convention Against Torture*, p. 7 (October 2015); HRGJ Clinic of CUNY School of Law, OutRight Action International (formerly, International Gay and Lesbian Human Rights Commission (IGLHRC)), and MADRE, *Living with Fear: Torture and Discrimination against LGBT Persons in Iraq* (2015).

women to disobey their husbands, and daughters to disobey their parents. This leads to the presumption that a shelter—a place where a group of immoral women reside without a male guardian—is likely a brothel.”⁸¹ This type of police abuse can leave women in hiding unprotected from family members who track them down for escaping threats of “honor” killings.

Lack of legal protection also puts shelter staff and residents at risk of non-state actor violence. On October 28, 2017, for example, an armed group of 50 persons raided the headquarters of the Organization of Women’s Freedom in Iraq (OWFI), an Iraqi NGO that provides shelter to victims of sexual and gender-based violence, in Al Saadoon in Baghdad.⁸² The men were armed with assault rifles and kidnapped a member of the OWFI staff and held him for ransom, forcing OWFI to negotiate for his release.⁸³ The armed group did not have a warrant to enter the premises, yet they searched the OWFI headquarters before abducting the staff member.⁸⁴ The police have not investigated the incident, maintaining that NGOs do not have permission to run shelters in Iraq.

Additionally, such services cannot be publicly advertised and it makes it extremely difficult for organizations to expand them to meet the current need. Lifting the ban on NGO-run shelters would enable local Iraqi women’s human rights organizations to operate legally and provide better protective services and emergency response to women and girls as well as other at-risk individuals fleeing violence. Furthermore, legalizing their activities will provide an additional layer of protection for these organizations, including unhindered access to police assistance and the state’s collaboration in protecting victims of gender-based violence.

Only in the region of Kurdistan have some local NGOs been permitted to run and maintain shelters for women fleeing violence. In 2011, the Kurdish Regional Government (KRG) passed Domestic Law No. 8, the Law against Domestic Violence in the Kurdistan Region of Iraq, which calls for the creation of women’s shelters.⁸⁵ While the law does not explicitly allow for NGO’s to run shelters, it provided space for collaboration between government and civil society and led to the creation of some shelters although not enough to meet the current needs.

Response by the Government of Iraq

The Iraqi government, in collaboration with UNFPA, opened a shelter in Baghdad after drafting standards for shelters for survivors of domestic violence, including sexual violence.⁸⁶ However, the shelter does not provide adequate protection for women fleeing attempted “honor” killings and other forms of domestic violence. In order for a woman escaping violence to be admitted to the shelter, she needs a report from the Ministry of Health (if she has any signs of violence) and a

⁸¹ Interview with Iraqi women’s organizations representatives, Istanbul, Turkey, January 2014 (on file with MADRE) (names omitted for safety reasons), reconfirmed this is still the situation in a conversation with one of the representatives on December 13, 2018 in New York.

⁸² UNAMI, *Report on Human Rights in Iraq: July to December 2017*, p. 13 (July 8, 2018).

⁸³ Id.

⁸⁴ Id.

⁸⁵ Law No. 8, the Act of Combatting Domestic Violence in Kurdistan Region-Iraq, Article 3(2) (2011).

⁸⁶ Government of Iraq, *Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018*, para. 73, UN Doc. CEDAW/C/IRQ/7 (2018).

police report about the incident. The case is then referred to a judge and the court makes the decision. Only then with a court order may a woman access shelter.⁸⁷ This process jeopardizes the safety of women by exposing them to retribution from their perpetrators and to extra-judicial means of resolution by the victim's family, such as being forced to marry the perpetrator or even being subject to "honor" killings. NGO-run shelters do not impose these difficult and dangerous requirements.

Although a government-sponsored shelter for victims of trafficking opened in Baghdad,⁸⁸ this is insufficient to provide for all of the women and girls who need assistance. Moreover, even if it were not the case that government-run shelters stay empty due to policies to report victims to their families, the opening of this solitary shelter does not remedy the continued prohibition on shelters operated by women's civil society organizations in central and southern Iraq.⁸⁹

The government's refusal to legally recognize NGO-run shelters violates its obligations under CEDAW.

Suggested Questions to the Government of Iraq:

1. What steps does the government intend to take to ensure adoption of the pending Family Violence Protection Law with the amendment clarifying that NGOs may provide shelter?
2. What measures is the government taking to protect NGO-run shelters and their staff from warrantless searches, arbitrary harassment, and violence?
3. What measures is the government taking to protect victims of sexual and gender-based violence, including domestic violence and those fleeing "honor" killings?
4. What efforts is the government taking to implement UN Security Council Resolution 1325, including plans to reinstate a ministry-level agency dedicated to gender issues in Iraq to replace the abolished Ministry of State for Women's Affairs?

IV. Women Denied Civil Status Identification Documents (Articles 1-3, & 9)

This Committee has urged governments to guarantee conflict-affected women and girls' equal rights to obtain documents necessary for the exercise of their legal rights and the rights to have such documentation issued in their own names.⁹⁰ However, women in Iraq are facing an identity

⁸⁷ Uttor al-Musawi, General Director of Women, Department of Labor and Social Affairs.

⁸⁸ UNFPA, *Giving women a second chance: inauguration of the first shelter for GBV survivors in Baghdad* (March 9 2018).

⁸⁹ Interview with Iraqi women's organizations representatives, Istanbul, Turkey, January 2014 (on file with MADRE) (names omitted for safety reasons).

⁹⁰ CEDAW Committee, *General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situation*, (October 18, 2013), stating: "6.1 The Committee recommends that State parties: (c) Guarantee conflict-affected women and girls equal rights to obtain documents necessary for the exercise of their legal rights and the right to have such documentation issued in their own names, and ensure the prompt issuance or replacement of

crisis. A Civil Status Identification Document is a mandatory document for citizens in Iraq and is used to access basic public services, including healthcare, employment and education. The procedure for a woman to obtain a government-issued identification (ID) includes being supported by a male companion, such as her father, brother or husband.⁹¹ Her ID is issued on the condition that it is based on her male companion's ID. Women fleeing from gender-based violence or conflict-related violence without any legal identification documents face great challenges to freely move around, register for residency permits (required to rent housing or secure employment) and claim civil status rights, including birth certificates for children. The restriction placed on women when applying for identification has heightened their security risk, increasing their vulnerability to violence and discrimination. The Government of Iraq has yet to adequately provide an alternative procedure to ensure women and girls are safe.

Lack of legal identification documents also places a great burden on internally displaced women in need of basic services. Many women lost their civil status ID, either while fleeing the conflict or while held captive by ISIL.⁹² ISIL routinely confiscated documents from the men and women they captured. The registration procedure in Iraq is inherently discriminatory towards women, and female-headed households are greatly disadvantaged. Many women are unable to obtain basic services, even food rations without legal identification to provide for their families. IDP women are often unable to secure employment, and receive no financial assistance from the state due to a lack of legal identification documents.⁹³

In addition, when a male relative has been arrested on suspicion of having perceived ties to ISIL or detained under Iraq's Anti-Terrorism Law,⁹⁴ women will be denied legal identification papers and will not be given a housing card in their name.⁹⁵ Consequently, women are unable to register at the Ministry of Migration and Displacement, required for documentation and housing. Security officers are also reportedly denying relatives of suspected ISIL members the clearance required to obtain legal identification documents.⁹⁶ Civil society organizations worry that the regulations placed on women and children are breeding a new group of terrorists and suicidal security risks.⁹⁷

documents without imposing unreasonable conditions, such as requiring displaced women and girls to return to their area of original residence to obtain documents.”

⁹¹ Humanitarian Practice Network, *The Crisis in Iraq*, p. 11 (November 2015), available at <https://www.refworld.org/docid/583c32424.html>.

⁹² OHCHR & UNAMI, *A Call for Accountability and Protection: Yazidi Survivors of Atrocities Committed by ISIL*, p. 9 (August 2016).

⁹³ Amnesty International, *The Condemned, Women and Children Isolated, Trapped and Exploited in Iraq*, p. 20 (2018).

⁹⁴ Under article 4 of the Anti-Terrorism Law 2005 in Iraq, perpetrators of terrorist acts and those who have assisted will receive the punishment. Iraq: Anti-Terrorism Law (Law No. 13 of 2005) Art. 4 (2005).

⁹⁵ Interview with Iraqi lawyers, Baghdad, Iraq, November 2018, (on file with MADRE) (names omitted for safety reasons).

⁹⁶ Human Rights Watch, *Iraq: Families of alleged ISIS members denied IDs* (February 25, 2018).

⁹⁷ Interview with Iraqi women's organizations representatives Erbil, Iraq, November 2018 (on file with MADRE) (names omitted for safety reasons).

Women without legal identification expressed concerns for their safety and more importantly, for their children's security without legal identification.⁹⁸ Undocumented children are unable to attend school; a pressing matter for young girls and their wellbeing.⁹⁹ Children who were born to ISIL fighters still have no documentation and in order to obtain a birth certificate in Iraq, it is required for the parents of the child to present proof of their marital status.¹⁰⁰ This procedure has made it extremely difficult for women to register their children born in areas that were under ISIL control, where the father is dead or missing or where the identity of the father is unknown in cases of rape.¹⁰¹ The Government of Iraq has yet to take action to amend the laws and regulations surrounding legal identification documents for women or provide an alternative to enhance the protection of women and children. Iraqi women's organizations have found that identification is one of the most pressing concerns for residents living in Iraq's displacement camps.¹⁰² The Iraq government should ensure that children born to women who were forced to marry ISIL fighters or to persons affiliated with ISIL are not subject to and are fully protected from discrimination and marginalization.

The restrictions which prevent Iraqi women from obtaining legal identification precludes their ability to work or enroll in any education institutions, such as training and programs. This has been detrimental to women's welfare, exposes them to certain dangerous risks, and jeopardizes their security in a conflict-affected country. A single woman without legal identification documents and without a death certificate for her husband is unable to remarry, inherit any of her husband's belongings, claim her husband's pension and if she has any children, she is unable to register them.¹⁰³ Until Iraq amends its laws and regulations, Iraqi women and girls will remain stateless and even more vulnerable to violence and discrimination.

Suggested Questions to the Government of Iraq:

1. What measures is the Government of Iraq taking to ensure that the prior authorization of a male relative is not required for issuing identity documents for women and further, to place special emphasis on ensuring documents for women and girls displaced by the conflict and for victims of gender-based violence?
2. What steps is the Government of Iraq taking to eliminate bureaucratic barriers that impede women's access to identity documents?

⁹⁸ Interview with displaced Yezidi women, Dohuk, Iraq, November 2018 (on file with MADRE) (names omitted for safety reasons).

⁹⁹ UN Human Rights Council, *Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Iraq*, paras. 34-36, UN Doc. A/HRC/32/35 (April 5, 2016).

¹⁰⁰ Birth and Death Registration Law (1971); Civil Status Law (1972); *see also* Human Rights Watch, *Iraq: Families of Alleged ISIS Members Denied IDs* (February 25, 2018).

¹⁰¹ Interview with Iraqi women's organizations representatives, Erbil, Iraq, November 2018 (on file with MADRE) (names omitted for safety reasons).

¹⁰² *Id.*

¹⁰³ Human Rights Watch, *Iraq: Families of alleged ISIS members denied IDs* (February 25, 2018).

V. Discrimination Against Women with Disabilities in Iraq (Articles 3, 12)

Statistics on the number of people with disabilities in Iraq are not readily available;¹⁰⁴ however a World Health Organization 2011 estimate places the number at four million.¹⁰⁵ Ongoing conflict and violence has disproportionately affected people with disabilities in Iraq.¹⁰⁶ The lack of legislation and even basic medical services available for people with disabilities in Iraq increases their vulnerability during conflict.¹⁰⁷ Inaccessible transportation systems mean that many people with disabilities are abandoned during evacuations, that shelters and camps are often inaccessible for people with disabilities, and that people with disabilities experience blatant discrimination by shelter and displacement camp staff.¹⁰⁸ In addition, violence, landmines, and explosive remnants of the conflict continue to increase the number of people with disabilities in Iraq.¹⁰⁹

Women with disabilities in Iraq face compounding discrimination on the basis of their gender and their disability.¹¹⁰ Iraqi NGOs agree that women with disabilities experience more discrimination than men with disabilities.¹¹¹ Women with disabilities are less likely to obtain access to work and education and consequently lack financial independence.¹¹² The observance of traditional gender roles in Iraq also means that women with disabilities often lack freedom of movement,¹¹³ and families ashamed of women with disabilities will prevent them from leaving the house, even to receive treatment.¹¹⁴ Women and girls with disabilities in Iraq are also more likely to experience physical abuse, discrimination, and exploitation.¹¹⁵

The Iraqi government's report fails to provide information on disabled women.¹¹⁶ Instead, the Government notes that persons made homeless by the internal conflict are treated as persons with disabilities in order to access services and benefits provided under Law 38 (2013) covering persons with disabilities.¹¹⁷ This conflation of homelessness and disabilities fails to address the intersecting discrimination women with disabilities face in Iraq. In addition, disability rights

¹⁰⁴ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, p. 3 (December 2016); Angela Boskovich, *Under strain from protracted conflict, displacement, and a budgetary crisis, Iraq's health system is struggling to care for the physically disabled*, Carnegie Endowment for International Peace (December 20, 2017).

¹⁰⁵ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, p. 3 (December 2016).

¹⁰⁶ *Id.*

¹⁰⁷ Ken Rutherford and Megan Hinton, *Evolution of Disability Rights in Iraq*, *The Journal of ERW and Mine Action*, p. 38, Vol. 19: Iss. 3, Article 9 (2015).

¹⁰⁸ *Id.*

¹⁰⁹ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, p. 5 (December 2016).

¹¹⁰ *Id.* at 8-9; Iraqi Alliance of Disability, *The Parallel Report for the Government's Report on the Convention on the Rights of Persons with Disability (CRPD)*, p. 8 (January 2018).

¹¹¹ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, p. 9 (December 2016).

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Iraqi Alliance of Disability, *The Parallel Report for the Government's Report on the Convention on the Rights of Persons with Disability (CRPD)*, p. 9 (January 2018).

¹¹⁵ *Id.*; UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, p. 9 (December 2016).

¹¹⁶ See Government of Iraq, *Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018*, UN Doc. No CEDAW/C/IRQ/7 (August 15, 2018).

¹¹⁷ *Id.* at para. 49.

organizations in Iraq note that the Iraqi government has failed to adequately implement Law 38 (2013).¹¹⁸ UNAMI and OHCHR further highlight that the definition of disabled persons under Law 38 (2013) takes a care-based approach rather than a rights-based approach, which is not in line with the definition under the Convention on the Rights of Persons with Disabilities,¹¹⁹ ratified by Iraq in 2013.¹²⁰

Suggested Questions to the Government of Iraq:

1. What steps is the Government of Iraq taking to fully implement Law 38 (2013), including to address the needs of women and girls with disabilities in Iraq?
2. What measures is the Government of Iraq taking to address the stigma and discrimination faced by women with disabilities in Iraq to enable their equal access to basic services, including healthcare, education and employment?

VI. Discrimination Against Afro-Descendant Iraqi Women (Articles 3-4, 8, & 10-11)

Afro-Iraqis are of African descent and located predominately in southern Iraq, in the city of Basra with an estimated population of between 1.5 million to 2 million.¹²¹ Afro-Iraqis are exposed to systematic discrimination facing social, economic and political exclusion. Afro-Iraqi women face intersecting gender and racial discrimination.¹²² Although the Iraqi Constitution of 2005 stipulates that all Iraqis are equal¹²³ and more specifically, prohibits racism and ethnic or religious hatred,¹²⁴ the Afro-Iraqi community is still marginalized and discriminated against and Afro-Iraqi women continue to suffer.

Continued casual references to Afro-Iraqis as ‘*abd*’ (meaning ‘slave’) and ‘*aswad*’ (meaning ‘Black’) demonstrates the persistent discrimination against Afro-Iraqis today.¹²⁵ The social status of Afro-Iraqis reflects a systematic pattern of social discrimination that developed over the centuries and solidified into the mainstream Iraqi cultural consciousness. Human rights

¹¹⁸ Iraqi Alliance of Disability, *The Parallel Report for the Government’s Report on the Convention on the Rights of Persons with Disability (CRPD)*, p. 9 (January 2018); UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, p. 6 (December 2016).

¹¹⁹ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, p. 16 (December 2016).

¹²⁰ UN Treaty Collection, Status of Ratifications of the Convention on the Rights of Persons with Disabilities.

¹²¹ Minority Rights Group International, *Iraq: Black Iraqis* November 2017, available at <https://minorityrights.org/minorities/black-iraqis/>; Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq’s Minorities*, Minority Rights Group International (June 2010).

¹²² Interview with Afro-Iraqi women’s rights activist, Baghdad, Iraq, November 2018 (on file with MADRE) (name omitted for safety reasons).

¹²³ Iraq Constitution 2005, Article 14, “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect belief or opinion, or economic or social status.”

¹²⁴ Id. at Article 7, “Any entity or program that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (takfir) or ethnic cleanings, especially the Saddamist Ba’ath in Iraq and its symbols, under any name whatsoever, shall be prohibited. Such entities may not be part of political pluralism in Iraq. This shall be regulated by law.”

¹²⁵ Interview with Afro-Iraqi women’s rights activist, Baghdad, Iraq, November 2018 (on file with MADRE) (name omitted for safety reasons).

violations in Iraq disproportionately impact Afro-Iraqi women and Afro-Iraqi women human rights defenders are subjected to threats.¹²⁶ The Government of Iraq has failed to acknowledge or implement any educational initiatives to address this stigma and the use of such derogatory labels of Afro-Iraqis and Iraq has yet to implement legislation to prevent racial discrimination and to protect minorities from marginalization.¹²⁷ There is also a striking lack of statistical data on the Afro-Iraqi community. The Special Rapporteur on minority issues reported that she was disturbed by the lack of information about the circumstances of the Afro-Iraqi community.¹²⁸ No official data or information has been published by the Government of Iraq in relation to Afro-Iraqi women, and the worrying neglect of Afro-Iraqi women and girls by the Government of Iraq only heightens the discrimination and marginalization against them.

Lack of Adequate Living Conditions, Education, and Employment for Afro-Iraqi Women

The presence of armed militants heightens insecurity in Iraq, endangering women from minority groups, including Afro-Iraqi women.¹²⁹ The Government has neglected to address Afro-Iraqis' deteriorating living conditions and discrimination against them.¹³⁰ The Government of Iraq must improve the living conditions of the Afro-Iraqi community and provide proper basic services, such as clean water supplies.¹³¹

Lack of access to employment, a regular income and education is perhaps one of the most significant challenges facing Iraqi women of African descent today. The Iraqi High Commissioner for Human Rights noted that women from minorities, especially Iraqi women of African descent, lack access to education and employment.¹³² Afro-Iraqi women experience higher levels of unemployment compared to women from the majority of the Iraqi population.¹³³ Afro-Iraqi women have been marginalized economically, usually employed in menial jobs such as domestic work, due to racial and gender discrimination.¹³⁴

Iraqi children of African descent who are able to enroll in school face verbal abuse and are called 'abd' (slaves), causing some children to drop out.¹³⁵ This contributes to low levels of literacy

¹²⁶ Interview with Iraqi women's organization representative, Erbil, Iraq, November 2018 (on file with MADRE) (name omitted for safety reasons).

¹²⁷ Interview with Afro-Iraqi women's rights activist, Baghdad, Iraq, November 2018 (on file with MADRE) (name omitted for safety reasons).

¹²⁸ UN Human Rights Council, *Report of the Special Rapporteur on minority issues on her mission to Iraq*, para. 48, UN Doc. A/HRC/34/53/Add.1 (2017).

¹²⁹ Interview with Afro-Iraqi women's rights activist, Baghdad, Iraq, November 2018 (on file with MADRE) (name omitted for safety reasons).

¹³⁰ Saad Salloum, *Crossroads, Human Rights Violations Against Iraqi Minorities After ISIS, Report 1*, pp. 12, 151 & 158 (2015).

¹³¹ Minority Rights Group International, *From Crisis to Catastrophe: the situation of minorities in Iraq*, p. 16 (October 2014) ("there is a lack of proper basic services, such as clean water, sewage facilities and electricity").

¹³² Iraqi High Commission for Human Rights (IHCHR), *Report on Iraq's Compliance with the International Convention on the Elimination of All Forms of Racial Discrimination submitted to the UN Committee on the Elimination of Racial Discrimination (CERD)*, p. 18 (2018).

¹³³ Id.

¹³⁴ Interview with Afro-Iraqi women's rights activist, Baghdad, Iraq, November 2018 (on file with MADRE) (name omitted for safety reasons).

¹³⁵ Id.

amongst Afro-Iraqis and a lack of a professional class and ability to participate in government, at both the local and national level. The Afro-Iraqi community lives in extreme poverty due to the neglect of the Government of Iraq and discrimination at educational institutions.¹³⁶

Discrimination, exclusion and high illiteracy rates amongst Afro-Iraqi women have translated into higher rates of domestic violence. Many Afro-Iraqi women are unaware of their rights and where they can seek help, should they face violence, abuse and discrimination. In 2013, community leaders estimated that domestic violence affects up to 60 per cent of Afro-Iraqi women.¹³⁷ Incidents of domestic violence, however, mainly go un-reported.¹³⁸

Lack of Access to Political Participation for Afro-Iraqi Women

The Iraqi Constitution omits the right of Afro-Iraqis to engage in political participation.¹³⁹ They do not have their own ethnic quota in Iraq's Parliament, unlike the other ethnic and religious groups in Iraq and have been excluded from the Council of Representatives. There has never been an Iraqi of African descent elected to the Council and Afro-Iraqi women are not included in government, peace implementation and decision-making roles. No Afro-Iraqi woman has ever achieved a high-level political position. The social, political and economic reality of Afro-Iraqi women is dire and despite constitutional guarantees, there is a clear need for an anti-discrimination law and mandatory education on ethnic minorities, including Afro-Iraqis. Human rights defenders call for fixed representation, as for other minorities, and increased security measures.¹⁴⁰

A draft diversity protection and anti-discrimination law was endorsed by members of the Iraqi Parliament, but remains stalled with the human rights committee of the Council of Representatives. The UN Assistance Mission for Iraq (UNAMI) has urged the Government of Iraq to adopt the draft Law on the Protection of the Rights of Religious and Ethnic Minority Groups, and the draft Law on the Protection of Diversity and Prohibition of Discrimination.¹⁴¹ The two laws aim to eliminate discrimination based on race, color, sex, language, religion, political or other opinion, nation or social origin. Furthermore, UNAMI recommends the Ministry of Education take appropriate action on specific incidents of discrimination in education.¹⁴²

¹³⁶ Institute for International Law and Human Rights, *Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, pp. 72-73 (May 2013).

¹³⁷ *Id.* at 76

¹³⁸ *Id.*

¹³⁹ Iraq Constitution, Article 125 (2005) ("This Constitution shall guarantee the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents, and this shall be regulated by law.").

¹⁴⁰ Minorities Conference, "The Role of Women in building Reconciliation between Components of Iraq", Baghdad, Iraq (December 2018).

¹⁴¹ UNAMI, *Report on Human Rights in Iraq: January to June 2017*, p. 6 (December 14, 2017).

¹⁴² *Id.*

Suggested Questions to the Government of Iraq:

1. What steps is the Government of Iraq taking to collect and prepare disaggregated data for the Afro-Iraqi community based on gender and race discrimination?
2. What preventive measures is the Government of Iraq taking to assess the situation of and protect Afro-Iraqi women from violence and discrimination?
3. What specific measures is the Government of Iraq taking to address systematic discrimination against Afro-Iraqis, and to ensure Iraqis of African descent enjoy all their economic, social and cultural rights?
4. What steps is the Government of Iraq taking to improve living conditions for Afro-Iraqi women, including ensuring their access to clean water?
5. What steps is the Government taking to increase meaningful employment, with livable wages, for Iraqi women of African descent?
6. What specific measures is the Government of Iraq taking to ensure that negative prejudices and stereotypes in school curriculum are eradicated and replaced with education on ethnic minority groups, including Afro-Iraqi women?
7. What steps has the Government of Iraq taken to assess and prepare data on all human rights violations experienced by Afro-Iraqis and specifically Afro-Iraqi women and girls?