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**Seeking Accountability for
Gender Based Violence and Human Rights Violations In Iraq**

A Report for the United Nations Committee Against Torture

Submitted by:

MADRE

The Organization of Women's Freedom in Iraq (OWFI)
Human Rights and Gender Justice Clinic, City University of New York (CUNY)
School of Law

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1. Introduction

This report, submitted in advance of the UN Committee Against Torture's (CAT Committee) determination of the List of Issues for its review of Iraq's compliance with the Convention Against Torture, describes persistent torture and other cruel, inhuman or degrading treatment or punishment against women and girls in Iraq. Since this Committee's last review, the Government of Iraq has failed to implement the CAT Committee's recommendations to address these types of human rights violations. Gender-based violence remains a serious concern, encouraged by a culture of impunity.¹ The Government has also failed to meaningfully prosecute the Islamic State of Iraq and the Levant's (ISIL) gender-based crimes.² It has yet to pass much needed legislation or amend existing laws to create a meaningful legal framework for preventing gender-based violence and ensuring justice and services for victims.³

With the spread of COVID-19 in Iraq, the situation is particularly acute for women and vulnerable groups who lack access to health services and are facing an increased risk of domestic violence. Stigma surrounds testing, quarantine and treatment for COVID-19 in Iraq, and women in particular, who may face shame for being ill or being away from their families, are often prevented from seeking COVID-19 testing or treatment.⁴ Meanwhile, deteriorating economic conditions have left many with no income during this period of lockdown. Anecdotal evidence suggests that these combined conditions have exacerbated domestic violence.⁵ In April, an Iraqi woman died of first degree burn wounds, after a lengthy period of abuse at the hands of her husband and his family.⁶ News coverage of the incident helped stir public outcry over undue delay in enacting the draft domestic violence bill, pending in Iraq's parliament since 2011.⁷

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

² UN Secretary-General, *Conflict-Related Sexual Violence*, para. 25, UN Doc. S/2019/280 (Mar. 29, 2019).

³ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, paras. 19(b), 21(a), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019); UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 86-88 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

⁴ Abdulrazzaq Al-Saiedi, *In Iraq, Those Infected With Coronavirus Face Shame and Stigmatization, Physicians for Human Rights* (Apr. 23, 2020), <https://phr.org/our-work/resources/in-iraq-those-infected-with-coronavirus-face-shame-and-stigmatization/>; Alissa J. Rubin, *Stigma Hampers Iraqi Efforts to Fight the Coronavirus*, THE N.Y. TIMES (Apr. 14, 2020), <https://www.nytimes.com/2020/04/14/world/middleeast/iraq-coronavirus-stigma-quarantine.html>.

⁵ Cordaid, *COVID-19 Response in Iraq: 'Our Domestic Violence Hotlines Keep Ringing'* (Apr. 21, 2020), <https://reliefweb.int/report/iraq/covid-19-response-iraq-our-domestic-violence-hotlines-keep-ringing>; Human Rights Watch, *Iraq: Urgent Need for Domestic Violence Law* (Apr. 22, 2020), <https://www.hrw.org/news/2020/04/22/iraq-urgent-need-domestic-violence-law>; Amnesty International, *Iraq: Open Letter To Iraq's New Prime Minister*, at 3 (May 7, 2020), <https://www.amnesty.org/download/Documents/MDE1422902020ENGLISH.pdf>; Mina Aldroubi, *Uproar in Iraq over Woman Allegedly Set on Fire by Husband*, THE NATIONAL (Apr. 13, 2020), <https://www.thenational.ae/world/mena/uproar-in-iraq-over-woman-allegedly-set-on-fire-by-husband-1.1005660>.

⁶ Human Rights Watch, *Iraq: Urgent Need for Domestic Violence Law* (Apr. 22, 2020), <https://www.hrw.org/news/2020/04/22/iraq-urgent-need-domestic-violence-law>; Mina Aldroubi, *Uproar in Iraq over Woman Allegedly Set on Fire by Husband*, THE NATIONAL (Apr. 13, 2020), <https://www.thenational.ae/world/mena/uproar-in-iraq-over-woman-allegedly-set-on-fire-by-husband-1.1005660>.

⁷ Mina Aldroubi, *Uproar in Iraq over Woman Allegedly Set on Fire by Husband*, THE NATIONAL (Apr. 13, 2020), <https://www.thenational.ae/world/mena/uproar-in-iraq-over-woman-allegedly-set-on-fire-by-husband-1.1005660>;

Iraq is at a turning point. A significant and growing grassroots civil society movement is calling for a meaningful response to domestic violence and other forms of gender-based violence. It is as important as ever that the international community support Iraqi civil society's efforts to protect human rights. By reminding the Government that sexual and gender based violence can amount to torture, and encouraging it to meaningfully prevent, investigate, prosecute, and provide reparations for it, international experts will help grassroots movements ensure long-lasting policy change. We encourage the Committee to consider the recommended questions for the Government of Iraq following each section of this report, which are designed to ensure that the Government fulfills its obligations under the Convention Against Torture.

2. Sexual and Gender-Based Violence (SGBV) as Torture (Arts. 1, 2, 4, 12, 13, 14, 16)

2.1 Domestic Violence

During its review of Iraq in 2015, this Committee expressed concern about the prevalence of domestic violence, and called on the Government of Iraq to “enact comprehensive legislation to combat domestic and gender-based violence, including a law permitting privately run shelters” and to “ensure that all cases of violence against women are thoroughly investigated, that perpetrators are prosecuted, and that victims obtain redress, including fair and adequate compensation.”⁸ In 2016, a group of human rights experts including the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stated that:

“Indifference, inaction or prosecutorial and judicial passivity in the face of domestic violence, and refusal to criminalize marital rape, lead to its legitimization and normalization. When States fail to exercise due diligence to protect victims and to prohibit and prevent violent acts, which cause women and girls severe physical or mental pain and suffering and may destroy their lives or result in their deaths, they are in breach of their commitments under the Convention Against Torture and other international human rights instruments.”⁹

In 2019, the UN Committee on Elimination of Discrimination against Women echoed the long-standing call for the Iraqi Government to meaningfully address domestic violence.¹⁰

Ban Barkawi, *Iraq's Stalled Domestic Violence Bill May Be Reviewed by New Government*, REUTERS (May 18, 2020), <https://www.reuters.com/article/iraq-women-violence/iraqs-stalled-domestic-violence-bill-may-be-revived-by-new-government-idUSL8N2CU4P9>; UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 14(c), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

⁸ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, paras. 24, 24(a), 24(d), UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015); *See also*, UN Committee Against Torture, *Concluding Observations on the Second Periodic Report of Saudi Arabia*, paras. 36, 37(a), UN Doc. CAT/C/SAU/CO/2 (Jun. 8, 2016) and UN Committee Against Torture, *Concluding Observations on the Second Periodic Report of Yemen*, para. 29, UN Doc. CAT/C/YEM/CO/2/Rev.1 (May 25, 2010).

⁹ UN Office of the High Commissioner of Human Rights, *Gender-Based Crimes through the Lens of Torture International Women's Day – Tuesday 8 March 2016*, (Mar. 3, 2016), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17152&>.

¹⁰ *See*, UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 22 (b), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

The Government of Iraq must take legislative and other measures that comprehensively prevent, address and recognize all forms of domestic violence.¹¹ Domestic violence includes intimate partner abuse as well as abuse of other family or household members including women, children, persons with disabilities, older persons, LGBTIQ people, and gender non-conforming persons.¹² It can come in the form of physical, sexual, psychological, and economic violence; and includes “honor” crimes; femicides; acid attacks; forced genital mutilation; forced, temporary and early marriage; withholding of medications and assistive devices; forced institutionalization; and marital rape.¹³ The sections below provide more information on women and girls’ increased vulnerability to domestic violence in Iraq during the COVID-19 pandemic, and on longstanding forms of domestic violence in Iraq.

A. Domestic Violence During the COVID-19 Pandemic

Domestic violence has increased globally, riding on the coattails of lockdown and shelter-in-place measures to control COVID-19.¹⁴ In response, the UN Secretary General called for a global “ceasefire” on domestic violence,¹⁵ lending high-level support to this long-standing demand on the part of women’s organizations around the world. As in many countries, in Iraq, government policies of self-quarantine at home, social distancing, curfews, and shutting down of non-essential services is exacerbating women and girls’ existing vulnerability to domestic violence.¹⁶ Since the Iraqi government imposed curfews March 17, 2020,¹⁷ domestic violence

¹¹ MADRE et. al., *From Global Coordination to Local Strategies: A Practical Approach to Prevent, Address and Document Domestic Violence under COVID-19 Briefing Paper*, at 9 (2020), <https://www.madre.org/sites/default/files/PDFs/From%20Global%20Coordination%20to%20Local%20Strategies.pdf>.

¹² MADRE et. al., *From Global Coordination to Local Strategies: A Practical Approach to Prevent, Address and Document Domestic Violence under COVID-19 Briefing Paper*, at 9 (2020), <https://www.madre.org/sites/default/files/PDFs/From%20Global%20Coordination%20to%20Local%20Strategies.pdf>.

¹³ MADRE et. al., *From Global Coordination to Local Strategies: A Practical Approach to Prevent, Address and Document Domestic Violence under COVID-19 Briefing Paper*, at 9 (2020), <https://www.madre.org/sites/default/files/PDFs/From%20Global%20Coordination%20to%20Local%20Strategies.pdf>.

¹⁴ UN Women, *Violence Against Women and Girls: The Shadow Pandemic, Statement by Phumzile Mlambo-Ngcuka, Executive Director of UN Women* (Apr. 6, 2020), <https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>; See, MADRE et. al., *From Global Coordination to Local Strategies: A Practical Approach to Prevent, Address and Document Domestic Violence under COVID-19 Briefing Paper*, at 1 (2020), <https://www.madre.org/sites/default/files/PDFs/From%20Global%20Coordination%20to%20Local%20Strategies.pdf>.

¹⁵ *UN Chief Calls for Domestic Violence ‘Ceasefire’ amid ‘Horrific Global Surge’*, UN NEWS (Apr. 6, 2020), <https://news.un.org/en/story/2020/04/1061052>.

¹⁶ Human Rights Watch, *Iraq: Urgent Need for Domestic Violence Law* (Apr. 22, 2020), <https://www.hrw.org/news/2020/04/22/iraq-urgent-need-domestic-violence-law>; Cordaid, *COVID-19 Response in Iraq: ‘Our Domestic Violence Hotlines Keep Ringing’* (Apr. 21, 2020), <https://reliefweb.int/report/iraq/covid-19-response-iraq-our-domestic-violence-hotlines-keep-ringing>; UN Women, *Paying Attention to Women’s Needs and Leadership will Strengthen COVID-19 Response* (Mar. 19, 2020), <https://www.unwomen.org/en/news/stories/2020/3/news-womens-needs-and-leadership-in-covid-19-response>; Tanya Selvaratnam, *Where can Domestic Violence Victims turn during Covid-19? Self-isolation during the Pandemic can be Dangerous for those in Abusive Relationships. Resources are Limited, but there are Options*, THE N.Y. TIMES (Mar. 23, 2020), <https://www.nytimes.com/2020/03/23/opinion/covid-domestic-violence.html>; UNFPA, *COVID-19: A Gender Lens - Protecting Sexual and Reproductive Health and Rights, and Promoting Gender Equality*, at 6 (Mar. 2020), https://www.unfpa.org/sites/default/files/resource-pdf/COVID-19_A_Gender_Lens_Guidance_Note.pdf.

cases have reportedly spiked.¹⁸ UN officials in Iraq predicted that the actual number of domestic violence cases occurring during the curfew is likely significantly higher than what Government authorities have recorded.¹⁹ Movement restrictions in the COVID-19 context, and the requirement that victims lodge an in-person domestic violence complaint with Family Protection Units to receive services are exacerbating barriers to reporting.²⁰

In April, after COVID-19 emerged in Iraq, an Iraqi woman died after being hospitalized for severe burn wounds, the culmination of serious abuse at the hands of her husband and his family.²¹ News coverage of the incident generated public outcry over the stalled domestic violence bill, and fueled a movement calling for legal accountability for domestic violence—a call that UN agencies in Iraq have supported.²²

B. “Honor” Killings

This Committee raised concerns about “honor” crimes in Iraq during its 2015 review of the Government’s compliance with its obligations under CAT.²³ “Honor” crimes refer to violence or killings, primarily of women and girls, committed by family or tribal members, for perceived

¹⁷ UN Women, *Security Council Informal Experts Group on Women, Peace and Security Responding to the COVID-19 Pandemic*, at 6 (Apr. 29, 2020) (on file with MADRE).

¹⁸ Cordaid, *COVID-19 Response in Iraq: ‘Our Domestic Violence Hotlines Keep Ringing’* (Apr. 21, 2020), <https://reliefweb.int/report/iraq/covid-19-response-iraq-our-domestic-violence-hotlines-keep-ringing>; United Nations Iraq, *UNFPA in Iraq: How Many More Women Should Suffer Before There Is A Law to Protect Them?* (Jun. 2, 2020), https://www.uniraq.org/index.php?option=com_k2&view=item&id=12410:unfpa-in-iraq-how-many-more-women-should-suffer-before-there-is-a-law-to-protect-them&Itemid=605&lang=en; *Locked in by Virus, Iraq Hit with New Pandemic: Domestic Abuse*, DECCAN HERALD (Apr. 26, 2020), <https://www.deccanherald.com/international/world-trending/locked-in-by-virus-iraq-hit-with-new-pandemic-domestic-abuse-830002.html>; Mina Aldroubi, *Uproar in Iraq over Woman Allegedly Set on Fire by Husband*, THE NATIONAL (Apr. 13, 2020), <https://www.thenational.ae/world/mena/uproar-in-iraq-over-woman-allegedly-set-on-fire-by-husband-1.1005660>.

¹⁹ UN Women, *Security Council Informal Experts Group on Women, Peace and Security Responding to the COVID-19 Pandemic*, at 6 (Apr. 29, 2020) (on file with MADRE); United Nations Iraq, *Safety At Home, An Illusion For Far Too Many Women in Iraq* (OHCHR) (May 13, 2020), http://www.uniraq.com/index.php?option=com_k2&view=item&id=12328:safety-at-home,-an-illusion-for-far-too-many-women-in-iraq-ohchr&Itemid=605&lang=en.

²⁰ UN Women, *Security Council Informal Experts Group on Women, Peace and Security Responding to the COVID-19 Pandemic*, at 6 (Apr. 29, 2020) (on file with MADRE).

²¹ Human Rights Watch, *Iraq: Urgent Need for Domestic Violence Law* (Apr. 22, 2020), <https://www.hrw.org/news/2020/04/22/iraq-urgent-need-domestic-violence-law>; Mina Aldroubi, *Uproar in Iraq over Woman Allegedly Set on Fire by Husband*, THE NATIONAL (Apr. 13, 2020), <https://www.thenational.ae/world/mena/uproar-in-iraq-over-woman-allegedly-set-on-fire-by-husband-1.1005660>.

²² Mina Aldroubi, *Uproar in Iraq over Woman Allegedly Set on Fire by Husband*, THE NATIONAL (Apr. 13, 2020), <https://www.thenational.ae/world/mena/uproar-in-iraq-over-woman-allegedly-set-on-fire-by-husband-1.1005660>; Ban Barkawi, *Iraq’s Stalled Domestic Violence Bill May Be Reviewed by New Government*, REUTERS (May 18, 2020), <https://www.reuters.com/article/iraq-women-violence/iraqs-stalled-domestic-violence-bill-may-be-revived-by-new-government-idUSL8N2CU4P9>; UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 14(c), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019); United Nations Iraq, *UN in Iraq Raises the Alarm: Time to Endorse the Anti-Domestic Violence Law*, (Apr. 16, 2020), https://www.uniraq.org/index.php?option=com_k2&view=item&id=12156:un-in-iraq-raises-the-alarm-time-to-endorse-the-anti-domestic-violence-law&Itemid=605&lang=en.

²³ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 24, UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015).

transgressions of societal norms, including patriarchal gender norms, which are said to bring shame to their families.²⁴ Women or girls may be killed for adultery (including perceived adultery), for having been raped, refusing forced marriage, seeking a divorce, or seeking or being perceived to date or marry someone of their choice.²⁵ “Honor” killings remain widespread in Iraq, in part due to lack of legislation to prevent and punish them, and penal code provisions that all but encourage them by allowing mitigated sentencing for murder in certain cases.²⁶ According to the Iraqi Ministry of the Interior’s Family and Child Protection Unit, 272 “honor” crimes cases were reported to the police and referred to courts in 2017.²⁷ Available statistics likely undercount “honor” crimes due to lack of reporting,²⁸ and because honor killings are frequently concealed as accidents or suicides, allowing perpetrators to avoid prosecution.²⁹

Iraqi Penal Code Articles 128, 130, 131, and 409 still allow for mitigated sentences for crimes including homicide, if they are committed for so-called “honourable motives.”³⁰ Penal Code Article 398 permits a rapist to avoid punishment by marrying the victim, leaving victims with the horrific choice of either facing “honor” killing, or being subject to forced marriage and ongoing domestic violence.³¹ In Kurdistan, parliament amended the penal code to suspend Article 409,³² however local advocates note that Kurdish authorities issue an amnesty every four years, including for those accused of “honor” killings.³³ Law enforcement, often viewing violence against family members as a private matter, is reluctant to investigate such crimes and hold

²⁴ UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, para. 40, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018); UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 92 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

²⁵ UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, para. 40, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018); UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 92 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

²⁶ UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, paras. 40-41, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018); Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, paras. 10-12 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf; Fazel Hawramy, *Buried Alive by Her Family, Iraqi Woman Fears for Her Life as Murders Go Unpunished*, REUTERS (Jul. 12, 2017), <https://www.reuters.com/article/us-iraq-women-murder/buried-alive-by-her-family-iraqi-woman-fears-for-her-life-as-murders-go-unpunished-idUSKBN19X2MN>.

²⁷ UNAMI & OHCHR, *Report on Human Rights in Iraq: July to December 2017*, at 12 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

²⁸ UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, para. 40, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018).

²⁹ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 92 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

³⁰ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 92 fn. 560 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

³¹ UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, para. 41, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018).

³² Parliament of Kurdistan, Law No. 3 of 2015.

³³ Correspondence with Iraqi human rights advocates (Apr. 30, 2020) (on file with MADRE).

perpetrators accountable.³⁴ Women have also been held in prisons or detention centers in order to protect them from potential “honor” killings.³⁵

In the aftermath of the conflict with ISIL, many women victims are still at risk of “honor” killing if they return to their homes, for the perceived “dishonor” they bring to their families and communities.³⁶ In 2017 a group of women trafficking victims, falsely charged with engaging in prostitution and unjustly incarcerated, had to seek refuge at a shelter in Basra, being unable to return home after release, due to death threats from their families.³⁷ Women in prominent positions, including politicians, journalists, doctors, and human rights defenders have also been targeted for “honor” killings for defying prescribed gender roles and taking active public positions.³⁸ Between August and September 2018 alone, four prominent Iraqi women were assassinated.³⁹

Government Response

The Government of Iraq does not adequately address “honor” killings in its State party report, failing to mention any statistics, or meaningful efforts to address killing or violence committed in the name of “honor.”⁴⁰ It does note that the Kurdish Parliament passed Act No. 14 of 2002, outlawing consideration of “honor” as a mitigating circumstance for crimes against women under Penal Code articles 128, 130 and 132.⁴¹ While it is commendable that the Kurdish Parliament has eliminated mitigated sentencing for “honor” crimes against women, this does not address mitigated sentencing outside the Kurdistan Region. It should also be noted that, “honor” crimes reportedly remain widespread in Kurdistan due to a lack of effective implementation of the

³⁴ UNAMI & OHCHR, *Report on Human Rights in Iraq: July to December 2017*, at 11-12 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

³⁵ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 93 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

³⁶ Lisa Davis, *Iraqi Women Confronting ISIL: Protecting Women’s Rights in the Context of Conflict*, 22 SW. J. INT’L L. 27, at 45 (2016), <https://www.swlaw.edu/sites/default/files/2017-04/SJIL%20V22,%20N1%203-Iraqi%20Women%20Confronting%20ISIL-Davis.pdf>.

³⁷ UNAMI & OHCHR, *Report on Human Rights in Iraq: July to December 2017*, at 13 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

³⁸ See, Human Rights and Gender Justice (HRGJ) Clinic, City University of New York (CUNY) School of Law, MADRE & the Organization of Women’s Freedom in Iraq (OWFI), *Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq*, para. 2 (2017); UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 89 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

³⁹ Martin Chulov, *Deaths of High-Profile Iraqi Women Spark Fear of Conservative Backlash*, THE GUARDIAN (Oct. 2, 2018), <https://www.theguardian.com/world/2018/oct/02/death-of-high-profile-iraqi-women-sparks-fear-of-witch-hunt>; Megan Specia, *A Social Media Star Is Shot Dead in Baghdad: Iraqis Fear a Trend*, THE N.Y. TIMES (Sept. 29, 2018), <https://www.nytimes.com/2018/09/29/world/middleeast/tara-fares-iraqi-model-death.html>; Zahra Ali, *After Several High-Profile Murders in Iraq, Here’s What Headlines Missed About Their Cause*, THE WASHINGTON POST (Oct. 15, 2018), <https://www.washingtonpost.com/news/monkey-cage/wp/2018/10/15/after-several-high-profile-murders-in-iraqi-heres-what-headlines-missed-about-their-cause/>.

⁴⁰ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, paras. 136-172, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁴¹ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, para. 172, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

law.⁴² The Iraqi central government should follow Kurdistan's initiative and eliminate mitigated sentences for "honor" crimes under the Iraqi Penal Code. Both the Kurdistan region and the Iraqi Government should take effective measures to prevent, address and protect women and other vulnerable persons at risk of "honor" killing.

Recommended Questions

- a. What measures has the Government of Iraq taken to "repeal mitigating and exculpatory provisions in the Penal Code about rape and 'honour' crimes (arts. 128, 130, 131 and 149), and act promptly to end impunity for rape and gender-based violence?"⁴³
- b. What measures has the Government of Iraq taken to change public perception on the acceptability of "honor" crimes in Iraq,⁴⁴ and to protect women and other vulnerable persons who are at risk of "honor" crimes in Iraq?

C. Forced, Temporary, and Early Marriage

Forced and early marriages are forms of sexual abuse and exploitation of women and girls that trap them in situations of domestic violence, servitude, marital rape and life-threatening early pregnancies.⁴⁵ The failure of a state to eliminate the practices of forced and early marriages violates its obligation to prevent and prosecute torture and cruel, inhuman and degrading treatment.⁴⁶ This Committee has continuously called on states to ensure that national legislation criminalizes forced marriages and denies legal effect to child marriages.⁴⁷

Forced, temporary, and early marriages persist in Iraq. A 2016 study found an estimated 24 percent of Iraqi women between 20 and 24 reported having married or been in a union before the

⁴² UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 92 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

⁴³ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 24(e), UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015). *See also*, UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 20(b), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019); UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 26(b), UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

⁴⁴ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 20(a), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

⁴⁵ UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, para. 63, UN Doc. A/HRC/31/57 (Jan. 5, 2016).

⁴⁶ UN Office of the High Commissioner of Human Rights, *Gender-Based Crimes through the Lens of Torture International Women's Day – Tuesday 8 March 2016* (Mar. 3, 2016), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17152&>; UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, paras. 58, 63, UN Doc. A/HRC/31/57 (Jan. 5, 2016); UN Committee Against Torture, *Concluding Observations on the Second Periodic Report of Saudi Arabia*, para. 37(a), UN Doc. CAT/C/SAU/CO/2 (Jun. 8, 2016); UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Ethiopia*, para. 32, UN Doc. CAT/C/ETH/CO/1 (Jan. 20, 2011).

⁴⁷ UN Committee Against Torture, *Concluding Observations on the Second Periodic Report of Saudi Arabia*, para. 37(a), UN Doc. CAT/C/SAU/CO/2 (Jun. 8, 2016); UN Committee Against Torture, *Concluding Observations on the Second Periodic Report of Yemen*, para. 31, UN Doc. CAT/C/YEM/CO/2/Rev.1 (May 25, 2010).

age of 18.⁴⁸ According to a 2018 survey conducted on 492 households in Basra, just under a fifth reported an incident of forced marriage in the previous year.⁴⁹ Poverty and tribal customs, including the practice of *fasliyya*, in which women are bartered as a means of resolving tribal disputes, play an aggravating role.⁵⁰ Family members sometimes force women and girls into so-called temporary marriages to pay off a debt or for financial gain.⁵¹

Iraq's legal framework and customary practices allowing for such marriages trap women and girls in situations where they lack access to protection and other social services and are at increased risk of abuse and exploitation. Article 7 of the Personal Status Law No. 188 of 1959 sets the legal age for both men and women at 18 years, however it allows for marriage of 15 year-olds with a guardian's consent and judicial permission.⁵² Noting a similar legal provision allowing for marriages of children under 15 years of age in Yemen, this Committee condemned such provisions as legalizing inhuman and degrading treatment.⁵³

Many forced, temporary, and early marriages in Iraq are conducted outside the courts.⁵⁴ Women in these unregistered marriages cannot obtain rights to alimony or widow's benefits, and cannot register births of children produced from the marriage, compounding the human rights violations resulting from forced or early marriage.⁵⁵ Under the Personal Status Law, a forced marriage can be considered null and void only if it has not been consummated,⁵⁶ a particularly harmful provision given the lack of recognition of marital rape in Iraq.⁵⁷ This provision means victims must pursue formal legal measures to escape the marriage, opening them up to potential retribution from their families.⁵⁸

⁴⁸ UN Children's Fund (UNICEF), *The State of the World's Children 2016*, at 151 (2016), https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf.

⁴⁹ PAX, *Human Security Survey Basra, Iraq – 2018 Key findings*, at 1 (2018), https://protectionofcivilians.org/wp/wp-content/uploads/2018/09/2018-HSS-Basra-placemat_final.pdf.

⁵⁰ Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, para. 30 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

⁵¹ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 93-94 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

⁵² Iraq Personal Status Law No. 188, art. 7-8.

⁵³ UN Committee Against Torture, *Concluding Observations on the Second Periodic Report of Yemen*, para. 31, UN Doc. CAT/C/YEM/CO/2/Rev.1 (May 25, 2010).

⁵⁴ Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, paras. 31-32 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

⁵⁵ Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, para. 31 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

⁵⁶ Iraq Personal Status Law No. 188, art. 9.

⁵⁷ Iraq Penal Code, No. 111 of 1969 arts. 393, 398, <https://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=452524304&skip=0&query=iraq%20penal%20code>; UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 87 fn. 521 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

⁵⁸ Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review*

Women and girls who were married to ISIL fighters—including those in coerced marriages—risk discrimination and forms of collective punishment.⁵⁹ UNAMI has called for assistance at the local level to ensure fair treatment of these women and girls, and to streamline registration and annulment of their marriages and registration of the births resulting from them in a non-stigmatizing way.⁶⁰

Government Response

The Government of Iraq states that the Kurdish Ministry of Health and the Iraqi Ministry of the Interior have carried out public education campaigns on early marriage prevention.⁶¹ However, the State party report does not include information on efforts by the Iraqi government in the central and southern part of the country to address forced, temporary, or early marriages.⁶² The report notes that under the Anti-Domestic Violence Act No. 8 of 2011 in Kurdistan, coercion to marry, marriage as an exchange or as an alternative for blood money, and marrying off minors are considered domestic violence.⁶³ However, advocates note that the law has not been adequately implemented in Kurdistan and these practices remain common.⁶⁴ Outside of Kurdistan, the Iraqi Personal Status Law states that a forced marriage is void, only if it has not been consummated,⁶⁵ leaving many women and girls in forced marriages without legal protection. The Government of Iraq does not address these harmful legal provisions in its State party report.⁶⁶

Recommended Questions

- a. What steps has the Government taken to ensure that “child marriages have no legal effect”⁶⁷ and to ensure “strict adherence to the legal provision that sets the minimum age for marriage for both sexes at 18, provide for deterrent punishments for forced marriages,

of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019, para. 31 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

⁵⁹ UNAMI, *Human Rights, Every Day, for All Iraqis: Promotion and Protection of Rights of Victims of Sexual Violence Captured by ISIL/or in Areas Controlled by ISIL in Iraq*, para. 41 (Aug. 2017), https://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport22Aug2017_EN.pdf.

⁶⁰ UNAMI, *Human Rights, Every Day, for All Iraqis: Promotion and Protection of Rights of Victims of Sexual Violence Captured by ISIL/or in Areas Controlled by ISIL in Iraq*, paras. 31-32, 41 (Aug. 2017), https://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport22Aug2017_EN.pdf.

⁶¹ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, paras. 71, 107, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁶² See generally, Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁶³ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, para. 159, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁶⁴ Correspondence with Iraqi human rights advocates (Apr. 30, 2020) (on file with MADRE).

⁶⁵ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 93 fn. 570 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

⁶⁶ See generally, Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁶⁷ UN Committee Against Torture, *Concluding Observations on the Second Periodic Report of Yemen*, para. 31, UN Doc. CAT/C/YEM/CO/2/Rev.1 (May 25, 2010).

and conduct widespread educational campaigns on the harmful effects of such practices?”⁶⁸

- b. What measures is the Government of Iraq taking to strengthen protections against forced, temporary and early marriages in its Personal Status Code, and to ensure justice, services and reparations for victims, including by eliminating the exception to annulment of forced marriages for those that have been consummated?

2.2 Trafficking and Forced Prostitution

In 2015 this Committee expressed concern regarding the Government of Iraq’s failure to provide information regarding the number of prosecutions, convictions and sentences of perpetrators of trafficking.⁶⁹ Under the Trafficking in Persons Act No. 28 of 2012,⁷⁰ the Government of Iraq has opened investigations into 356 trafficking cases from April 2018 to March 2019.⁷¹ Of the 148 identified victims, 74 were female victims of sexual exploitation.⁷² However, insufficient guidelines and training for officials on identifying victims, and inadequate referral mechanisms mean that these numbers do not reflect the total number of trafficking victims.⁷³

Trafficking survivors in Iraq lack access to basic protection, services, and justice; and can become targets of prosecution for acts resulting from their trafficked status.⁷⁴ In 2018, for example, local experts in Iraq reported a significant number of prosecutions against trafficking survivors, and in 2019 survivors remained at high risk of criminalization and punishment.⁷⁵ Authorities lack understanding of trafficking indicators and often fail to identify trafficking victims among vulnerable populations, resulting in their continued prosecution and imprisonment for acts traffickers forced them to commit.⁷⁶

⁶⁸ UN Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 42, UN Doc. E/C.12/IRQ/CO/4 (Oct. 12, 2015); *See also*, UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 16, UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015); UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 36(a), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

⁶⁹ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 29, UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015).

⁷⁰ Law No. 28 of 2012, Combating Trafficking in Persons (Iraq), Apr. 23, 2012, IRQ-2012-L-94253, http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=94253&p_country=IRQ&p_count=232&p_classification=04&p_classcount=6; Government of Iraq, *Sixth Periodic Report Submitted by Iraq under Article 40 of the Covenant*, para. 156, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

⁷¹ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁷² U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247-248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁷³ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁷⁴ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁷⁵ U.S. Department of State, *Trafficking in Persons Report June 2018*, at 232 (2018), <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>; U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁷⁶ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 246, 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

Moreover, deficiencies in the Government's identification and referral procedures also prevent many victims from accessing care.⁷⁷ Investigative judges are the only authority who can officially identify and refer trafficking victims to protection services, and require the victim to testify in front of their perpetrators in court to make that determination.⁷⁸ Because of this requirement many victims do not come forward, fearing retaliation, and are left without access to protection services.⁷⁹ Key government security officials have reportedly shielded traffickers from investigation and prosecution.⁸⁰ Authorities have not held Iraqi Government officials complicit in sex trafficking criminally accountable.⁸¹

Government Response

The Government states it has passed legislation to address trafficking, including the Trafficking in Persons Act No. 28 of 2012 and its draft implementing guidelines, Act No. 58 of 2017 concerning witness, expert and victim protection, and Regulation No. 7 of 2017 regarding shelters for trafficking victims.⁸² However as of 2019, the Government continued to provide inadequate witness protection to victims, and courts did not protect the privacy or identity of victims testifying against their traffickers.⁸³ The report notes that one shelter is ready to admit survivors, and that fifteen social workers have been assigned to a shelter in Baghdad to attend to cases.⁸⁴ Only seven victims were sheltered at the Baghdad shelter in 2018, with victims unable to freely come and go, and civil society organizations reporting that the shelters provided inadequate psychosocial, medical, and vocational support to recipients.⁸⁵ The KRG lacks adequate shelter, and victims must receive a court order to leave existing shelters.⁸⁶

The Government states that it has established a free 533 hotline to receive complaints concerning human trafficking and established committees authorized to investigate human trafficking crimes and collect information and data.⁸⁷ However, officials do not provide any data detailing the

⁷⁷ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247-248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁷⁸ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁷⁹ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁸⁰ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁸¹ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 247 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁸² Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, paras. 166, 220-221, 230-231, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁸³ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁸⁴ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, para. 225, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁸⁵ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁸⁶ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁸⁷ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, paras. 222, 238 UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

activities or the effectiveness of these committees,⁸⁸ and instead provides outdated data from 2016 on investigations of human trafficking cases and mentions that a human trafficking database is being established.⁸⁹ The State party report explains that victims of sex trafficking “shall be considered as victims of human trafficking and, therefore, not prosecuted for associated crimes such as coercion into vice and prostitution.”⁹⁰ Officials fail, however, to provide information on specific measures to ensure there is no conflation of these circumstances,⁹¹ and significant numbers of victims continue to be criminalized.⁹²

Recommended Questions

- a. What measures has the Government of Iraq taken to “intensify its efforts to prevent and combat trafficking in human beings”, implement “effectively the 2012 anti-trafficking legislation” and “provide protection for victims, including shelters and psychosocial assistance?”⁹³
- b. What measures has the Government of Iraq taken to “conduct prompt and impartial investigations into cases of human trafficking, ensure that those found guilty of such crimes are punished with penalties appropriate to the nature of their crimes, and guarantee that all victims of such acts obtain redress?”⁹⁴
- c. What measures has the Government of Iraq taken to “ensure that victims of trafficking for forced sexual exploitation are not criminalized for prostitution-related offences?”⁹⁵
- d. What measures has the Government of Iraq taken to “ensure the systematic collection of data on trafficking flows to and in transit through the country?”⁹⁶

⁸⁸ See generally, Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁸⁹ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, paras. 223, 239 UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

“[A] total of 314 cases were recorded and 347 persons charged of whom 83 were sent for trial and 17 were convicted; 73 persons were released, 95 referred to other bodies, 19 held pending further investigation and 60 released on bail. Under the Act, sentences vary – in accordance with the type of act committed and how it is criminalized in law – from a term of imprisonment and a fine of between ID 5 million and 25 million to life imprisonment and even the death penalty, if the act committed leads to the victim’s death.” at para. 223.

⁹⁰ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, para. 235, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁹¹ See generally, Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

⁹² U.S. Department of State, *Trafficking in Persons Report June 2018*, at 232 (2018), <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>; U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

⁹³ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 29(a), UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015). See also, UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 32, UN Doc. CCPR/C/IRQ/CO/5 (December 3, 2015); UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Reports of Iraq*, para. 24(b), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

⁹⁴ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 29(b), UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015). See also, UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Reports of Iraq*, para. 24(c), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

⁹⁵ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 29(c), UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015).

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

Despite plentiful evidence with which to indict,⁹⁷ ISIL fighters have not been prosecuted for sexual and gender-based crimes committed in Iraq.⁹⁸ They are instead charged under Iraq's counter-terrorism laws and tried in domestic courts.⁹⁹ Convictions are based on the accused's ties to ISIL, rather than on the specific nature and type of crimes committed, and fail to account for the nature of the accused's connection to ISIL, including whether the connection was based in coercion, or simply represented familial ties to an ISIL fighter.¹⁰⁰ This low bar for mass conviction means that courts are not investigating egregious crimes, including gender-based crimes.¹⁰¹ Victims are often uninformed of when or where alleged perpetrators are being brought to trial, denying them the opportunity to participate.¹⁰²

⁹⁶ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 29(d), UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015). See also, UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Reports of Iraq*, para. 24(h), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

⁹⁷ MADRE, CUNY School of Law, OWFI and other supporting organizations documented these crimes committed by ISIL in an Article 15 Communication to the International Criminal Court. HRGJ Clinic, CUNY School of Law, MADRE & OWFI, *Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq*, paras. 2, 55 (2017), <https://www.madre.org/sites/default/files/PDFs/ICC%20Petition%20with%20Sept%2010%20Addendum.pdf>. The UN Refugee Agency has cited this documentation, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq* (May, 2019), <https://www.refworld.org/docid/5cc9b20c4.html>. The UN Investigative Team for the Promotion of Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) has requested copies to support their own documentation efforts.

⁹⁸ UN Secretary-General, *Conflict-Related Sexual Violence*, para. 25, UN Doc. S/2019/280 (Mar. 29, 2019).

⁹⁹ UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the Anti-Terrorism Laws and Implications for Justice, Accountability and Social Cohesion in the Aftermath of ISIL*, at 10 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf; See also, *Open Letter to the UN Security Council on the Government of Iraq's Prosecutions of ISIS Fighters* (Jun. 13, 2018), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraqs-prosecutions>; Margaret Coker and Falih Hassan, *A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects*, N.Y. TIMES (Apr. 17, 2018), <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>.

¹⁰⁰ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 35 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the Anti-Terrorism Laws and Implications for Justice, Accountability and Social Cohesion in the Aftermath of ISIL*, at 10 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf; Margaret Coker and Falih Hassan, *A 10-Minute Trial, a Death Sentence: Iraqi Justice for ISIS Suspects*, N.Y. TIMES (Apr. 17, 2018), <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>.

¹⁰¹ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, at 4, 21 (Dec. 2017), <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

¹⁰² UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the Anti-Terrorism Laws and Implications for Justice, Accountability and Social Cohesion in the Aftermath of ISIL*, at 13 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf; Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, at 54 (Dec. 2017), <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

Women and girl survivors of ISIL's gender-based crimes remain vulnerable to discrimination and social stigma because of their perceived ties to ISIL.¹⁰³ In a positive step, a now-deceased Yazidi spiritual leader called for community reintegration of women and girl survivors of ISIL enslavement.¹⁰⁴ Unfortunately, survivors still experience stigma and discrimination.¹⁰⁵ Even women in displacement camps who are perceived to have ties to ISIL—sometimes, for example, for having fled areas believed to be ISIL-controlled—are denied access to health care, food, and water, and face sexual violence and harassment.¹⁰⁶ Some of these women and families cannot return home out of fear of reprisals or direct threats to their lives,¹⁰⁷ and some report that this lack of reintegration has caused them to consider suicide.¹⁰⁸

Government Response

The Government of Iraq states that it has taken steps “to bring to justice the perpetrators of the sexual violence that accompanied the terrorist crimes committed by ISIL,” and states that “appropriate sentences have been handed down against them.”¹⁰⁹ The State party report notes a small number of initiatives to provide psychosocial or medical support for victims, and states that it signed an agreement with the UN Special Representative of the Secretary-General for Sexual Violence in Conflict to document sexual violence crimes, but fails to provide any evidence of progress in documenting or prosecuting these crimes.¹¹⁰ As of January 2020 in cases under international observation, ISIL defendants were almost exclusively sentenced under Iraq's Anti-Terrorism Law for membership or association with a terrorist group.¹¹¹ Broad prosecution under the Anti-Terrorism Law fails to capture the full range of sexual and gender-based crimes committed by ISIL, and undermines the possibility of reconciliation for victims and their

¹⁰³ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 90 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

¹⁰⁴ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 90 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

¹⁰⁵ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 90 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

¹⁰⁶ Amnesty International, *The Condemned: Women and Children Isolated, Trapped and Exploited in Iraq*, at 5 (Apr. 2018), <https://www.amnesty.org/download/Documents/MDE1481962018ENGLISH.PDF>.

¹⁰⁷ Amnesty International, *The Condemned: Women and Children Isolated, Trapped and Exploited in Iraq*, at 6 (Apr. 2018), <https://www.amnesty.org/download/Documents/MDE1481962018ENGLISH.PDF>.

¹⁰⁸ Amnesty International, *The Condemned: Women and Children Isolated, Trapped and Exploited in Iraq*, at 6 (Apr. 2018), <https://www.amnesty.org/download/Documents/MDE1481962018ENGLISH.PDF>.

¹⁰⁹ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, para. 66, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

¹¹⁰ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, paras. 76, 91, 96, 103, 124 UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

¹¹¹ UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the Anti-Terrorism Laws and Implications for Justice, Accountability and Social Cohesion in the Aftermath of ISIL*, at 9-10 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf.

families.¹¹² Trials also continue to move ahead with limited victim participation and have not adhered to basic fair trial standards.¹¹³

Recommended Questions

- a. What measures is the Government of Iraq taking to ensure that ISIL fighters are prosecuted for sexual and gender-based crimes, and to “conduct prompt, impartial and thorough inquiries; try the perpetrators of such [conflict related sexual violence] acts and, if they are found guilty, sentence them to punishment commensurate with the gravity of their acts?”¹¹⁴
- b. What measures is the Government of Iraq taking to provide adequate redress to victims of SGBV, in particular ensuring that women, including those who have fled ISIL-controlled areas “have access to shelter, medical and psychological care and rehabilitation and public services, and are able to access such services without discrimination on the basis of gender or other status?”¹¹⁵ In this vein, what steps is the Government of Iraq taking to reintegrate victims of SGBV and women and families perceived to be affiliated with ISIL back into their communities, while ensuring that they do not face additional discrimination, stigma, or rights violations while living in displacement camps?

3. Denial of Safe Shelter for Persons fleeing SGBV (Arts. 1, 2, 4, 12, 14, 16)

Iraq overwhelmingly lacks adequate shelter to meet the needs of SGBV victims and others feeling violence.¹¹⁶ The need is so great that in the aftermath of the ISIL conflict and in the absence of adequate services and shelters for those fleeing SGBV, some women at risk of “honor” killings have been detained in prisons and detention centers to protect them from their families.¹¹⁷ Iraqi non-governmental organizations (NGOs) have been trying to fill the gap in

¹¹² UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the Anti-Terrorism Laws and Implications for Justice, Accountability and Social Cohesion in the Aftermath of ISIL*, at 13 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf.

¹¹³ UNAMI & OHCHR, *Human Rights in the Administration of Justice in Iraq: Trials under the Anti-Terrorism Laws and Implications for Justice, Accountability and Social Cohesion in the Aftermath of ISIL*, at 13-14 (Jan. 2020), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf.

¹¹⁴ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 13, UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015).

¹¹⁵ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 13, UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015).

¹¹⁶ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 87-88 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; United Nations Iraq, *UNFPA in Iraq: How Many More Women Should Suffer Before There Is A Law to Protect Them?* (Jun. 2, 2020), https://www.uniraq.org/index.php?option=com_k2&view=item&id=12410:unfpa-in-iraq-how-many-more-women-should-suffer-before-there-is-a-law-to-protect-them&Itemid=605&lang=en.

¹¹⁷ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 93 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; UN General Assembly, *Technical Assistance Provided to Assist in the Promotion and Protection of Human Rights in Iraq: Report of the*

services by providing shelter and necessary protection services for victims fleeing violence,¹¹⁸ despite often having to do so clandestinely, and in the absence of legal recognition by the Iraqi government.

The Government of Iraq has publicly acknowledged its reliance on local NGOs to provide services to survivors of gender-based violence. In 2015, when asked about shelter availability by the UN Economic, Social, and Cultural Rights Committee, Government representatives responded that Organization of Women's Freedom in Iraq (OWFI), an NGO that runs private shelters, is helping to meet survivors' needs in central and southern Iraq.¹¹⁹

Inside Iraq, however, Government officials have interpreted public policy to mean that *only* the Government may provide shelter.¹²⁰ They have raided,¹²¹ attacked, and threatened¹²² NGO-run shelters. Police and security forces that find women housed in privately-run shelters may send them back to their families, from whom they are fleeing in the first place.¹²³ Police harassment of such facilities not only puts staff and residents at risk, but it forces them to routinely relocate.¹²⁴ The lack of legal protection also puts shelter staff and residents at risk of armed actor violence. On October 28, 2017, a group of about 50 armed men raided OWFI headquarters in Al Saadoon in Baghdad.¹²⁵ After searching the headquarters the men kidnapped an OWFI staff member, held him for ransom, and forced OWFI to negotiate for his release.¹²⁶

United Nations High Commissioner for Human Rights, para. 29, UN Doc. A/HRC/30/66 (Jul. 27, 2015), www.refworld.org/docid/55f7f4c74.html.

¹¹⁸ *Open Letter to the U.N. Security Council on the Government of Iraq's NGO Shelter Policy*, (Oct. 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>.

¹¹⁹ UN Economic, Social, and Cultural Rights Committee, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 39, UN Doc. E/C.12/IRQ/CO/4 (Oct. 27, 2015).

¹²⁰ *Open Letter to the UN Security Council on the Government of Iraq's NGO Shelter Policy* (Oct. 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>; United Nations Economic and Social Commission for Western Asia, *Shelters for Women Survivors of Violence: Availability and Accessibility in the Arab Region*, at 37, E/ESCWA/ECW/2019/5 (2019), <https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/shelters-arab-region-availability-accessibility-english.pdf>.

¹²¹ *Open Letter to the UN Security Council on the Government of Iraq's NGO Shelter Policy* (Oct. 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>.

¹²² UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 87 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>.

¹²³ UN High Commissioner for Refugees, *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, at 87-88 (May 2019), <https://www.refworld.org/docid/5cc9b20c4.html>; See, *Open Letter to the UN Security Council on the Government of Iraq's NGO Shelter Policy* (Oct. 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>.

¹²⁴ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 21(c), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019); United Nations Economic and Social Commission for Western Asia, *Shelters for Women Survivors of Violence: Availability and Accessibility in the Arab Region*, at 37, E/ESCWA/ECW/2019/5 (2019), <https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/shelters-arab-region-availability-accessibility-english.pdf>.

¹²⁵ UNAMI, *Report on Human Rights in Iraq: July to December 2017*, at 13 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

¹²⁶ *Open Letter to the U.N. Security Council on Shelter Raids in Iraq* (Dec. 2017), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-shelter-raids-iraq>.

When the Government has opened its own shelters for human trafficking victims, it has provided limited protection services and inadequate psychosocial, medical and other services.¹²⁷ In February 2019, women in a Government shelter reported to human rights advocates that judges in their cases insisted on calling their families and reporting their whereabouts to those from whom women were fleeing.¹²⁸ Draft guidelines applicable to government-run shelters require survivors to petition a judge in a national family court to be placed in a shelter.¹²⁹ These guidelines act as a major entry barrier for survivors to access shelters.¹³⁰

3.1 Call for Shelter for SGBV Survivors by UN Treaty Bodies

Despite five years of calls for policy change from international human rights treaty bodies and experts,¹³¹ women and other vulnerable groups fleeing SGBV continue to be denied access to NGO-run private shelters. In 2015, this Committee found that the lack of shelters in Iraq for SGBV survivors violated the Government of Iraq's obligation to prevent torture.¹³² In an unprecedented concluding observation, and in response to the dangers women victims faced in the absence of shelter in Iraq, the Committee called on the Iraqi government to legally permit privately run shelters.¹³³

The UN Human Rights Committee followed suit during its review of Iraq in 2015. Voicing concern about the prohibition of NGO-run shelters for domestic violence victims, the Committee called on the Government to ensure victims have access to state and NGO-run shelters and to

¹²⁷ U.S. Department of State, *Trafficking in Persons Report June 2019*, at 248 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

¹²⁸ Interview with Iraqi women's advocate (Feb. 4, 2019) (on file with MADRE) (name omitted for safety reasons).

¹²⁹ United Nations Economic and Social Commission for Western Asia, *Shelters for Women Survivors of Violence: Availability and Accessibility in the Arab Region*, at 34, 60, E/ESCWA/ECW/2019/5 (2019), <https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/shelters-arab-region-availability-accessibility-english.pdf>; UN Security Council, *Letter dated 17 May 2018 from the Permanent Representatives of Peru, Sweden and the United Kingdom of Great Britain and Northern Ireland to the United Nations Addressed to the Secretary-General*, at 3, UN Doc. S/2018/475 (May 18, 2018), <https://undocs.org/S/2018/475>.

¹³⁰ United Nations Economic and Social Commission for Western Asia, *Shelters for Women Survivors of Violence: Availability and Accessibility in the Arab Region*, at 34, E/ESCWA/ECW/2019/5 (2019), <https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/shelters-arab-region-availability-accessibility-english.pdf>; UN Security Council, *Letter dated 17 May 2018 from the Permanent Representatives of Peru, Sweden and the United Kingdom of Great Britain and Northern Ireland to the United Nations Addressed to the Secretary-General*, at 3, UN Doc. S/2018/475 (May 18, 2018), <https://undocs.org/S/2018/475>.

¹³¹ See, UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 22 (b), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019); UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 24(d), UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015); UN Security Council, *Letter Dated 22 December 2016 from the Permanent Representatives of Spain and the United Kingdom of Great Britain and Northern Ireland to the United Nations Addressed to the Secretary-General*, at 3, UN Doc. S/2016/1104 (Dec. 27, 2016); and UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, paras. 43-44, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018).

¹³² UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq*, para. 24, UN Doc. CAT/C/IRQ/CO/1 (Sept. 7, 2015).

¹³³ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq, Advanced Unedited Version*, para. 24(d), UN Doc. CAT/C/IRQ/CO/1 (Aug. 14, 2015).

adopt the pending draft law on domestic violence.¹³⁴ In 2018, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions found that Iraq's lack of a legislative framework to address "honor" killings, and its failure to authorize NGO-run shelters amounted to a failure to respect women's right to life, and to meet its due diligence obligations to address gender violence.¹³⁵

In 2019, the UN Committee on Elimination of Discrimination against Women (UN CEDAW Committee) observed with concern the "insufficient number and capacity of State-run shelters for victims of gender-based violence."¹³⁶ The Committee noted "that shelters run by non-governmental organizations to respond to the needs of women and girls who are survivors of violence, including ISIL victims, have been forced routinely to relocate in order to ensure the safety of both victims and staff members."¹³⁷

3.2 Domestic Violence Law

In 2011, the Kurdish Regional Government (KRG) passed the Domestic Violence Act No. 8 of 2011 that required the government to provide shelters for victims of domestic violence.¹³⁸ While the law does not explicitly allow for NGOs to run shelters, in 2014, KRG issued a decree clarifying that NGOs could provide shelters.¹³⁹ In central and southern Iraq, a similar policy on domestic violence has not been adopted yet.

In 2016, after briefing members of the Informal Experts Group of the UN Security Council, UNAMI invited OWFI to provide input on a draft law on domestic violence. OWFI recommended adding a phrase to the law that would clarify that non-governmental organizations are authorized to operate shelters for women and girl survivors of gender-based violence.¹⁴⁰ In a December 2016 letter to the UN Secretary-General, the Permanent Representatives of Spain and the United Kingdom to the United Nations, co-chairs of the Informal Expert Group on Women and Peace and Security, noted the delays in adopting the law with provisions for NGO-run

¹³⁴ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 25, 26(a)-(b) UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

¹³⁵ UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Mission to Iraq*, para. 44, UN Doc. A/HRC/38/44/Add.1 (Jun. 5, 2018).

¹³⁶ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 21(c), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

¹³⁷ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 21(c), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

¹³⁸ Law No. 8 of 2011, Act of Combatting Domestic Violence in Kurdistan Region-Iraq, (Iraq), art. 3(2), Jun. 21, 2011, <https://www.refworld.org/docid/5b2911044.html>. "The Ministry of Labour and Social Affairs must provide shelter to the victims of domestic violence." Minority Rights Group International, Ceasefire Centre for Civilian Rights & ASUDA for Combating Violence against Women, *Alternative Report to the Committee on the Elimination of Discrimination against Women, Review of the Periodic Report of Iraq, 74th Session of CEDAW 21 October-8 November 2019*, para. 8 (2019), https://minorityrights.org/wp-content/uploads/2019/10/CEDAW_Iraq_MRG-CC-ASUDA-2019.pdf.

¹³⁹ *Open Letter to the U.N. Security Council on the Government of Iraq's NGO Shelter Policy*, (Oct. 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>.

¹⁴⁰ Lisa Davis, *The Paradox of Crisis: Countering Iraq's Anti-Shelter Policy in the Era of ISIS*, 2 COLUMBIA UNIV. J. INT'L AFFAIRS, 70, at 8 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3185731.

shelter.¹⁴¹ In June 2017, UNAMI called attention to the lack of legal coverage for NGO-run shelters and reiterated its support for adoption of the draft anti-domestic violence law with the amendment permitting NGO-run shelters.¹⁴² Most recently, in 2019, the UN CEDAW Committee called for passage of a domestic violence law.¹⁴³

Government Response

The Government of Iraq notes in its State party report that the pending Domestic Violence Law includes a provision to create protection mechanisms and shelters for victims, which would be opened once the law is approved.¹⁴⁴ The Government also states that under Social Welfare Act No. 126 of 1980, care homes are mandated for victims of domestic violence.¹⁴⁵ The Ministry of Labour and Social Affairs has issued directives regarding shelters for women and girl victims of violence, and is studying the possibility of opening shelters before enactment of the law.¹⁴⁶ There is no evidence that such shelters have opened. The State party report highlights three specialized centers opened by the Government in Kurdistan to serve as shelters for women, which receive cases via domestic violence court order.¹⁴⁷ This does not address the ongoing lack of shelter for women and girls victims of violence outside the Kurdistan Region, nor does it address the precarity of NGO run shelters providing much needed support.

Recommended Questions

- a. What measures is the Government of Iraq taking to enact the draft domestic violence bill and to “combat domestic and gender-based violence, including [by enacting] a law permitting privately run shelters” for all vulnerable groups, including women, the elderly, disabled persons, and families fleeing violence?¹⁴⁸
- b. What measures has the Government of Iraq taken to “increase cooperation with non-governmental organizations working to protect women and girls from violence

¹⁴¹ UN Security Council, *Letter Dated 22 December 2016 from the Permanent Representatives of Spain and the United Kingdom of Great Britain and Northern Ireland to the United Nations Addressed to the Secretary-General*, at 3, UN Doc. S/2016/1104 (Dec. 27, 2016).

¹⁴² UN Security Council Informal Experts Group on Women, Peace and Security, *Summary of June 14th Meeting in Iraq*, at 3-4, UN Doc. S/2017/624 (July 21, 2017).

¹⁴³ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 14(c), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

¹⁴⁴ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, paras. 155, 166, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

¹⁴⁵ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, para. 156, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

¹⁴⁶ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, paras. 156, 167, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

¹⁴⁷ Government of Iraq, *Second Periodic Report Submitted by Iraq Under Article 19 of the Convention, due in 2019*, para. 174, UN Doc. CAT/C/IRQ/2 (Nov. 20, 2019).

¹⁴⁸ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq, Advanced Unedited Version*, para. 24(d), UN Doc. CAT/C/IRQ/CO/1 (Aug. 14, 2015); See, Lisa Davis, *The Paradox of Crisis: Countering Iraq’s Anti-Shelter Policy in the Era of ISIS*, 2 COLUMBIA UNIV. J. INT’L. AFFAIRS, 70, at 5 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3185731; UN Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 40(b), UN Doc. E/C.12/IRQ/CO/4 (Oct. 27, 2015); UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 22(b), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

throughout the country, and ensure that such organizations are protected from all forms of harassment and violence”¹⁴⁹

¹⁴⁹ UN Committee Against Torture, *Concluding Observations on the Initial Periodic Report of Iraq, Advanced Unedited Version*, para. 24(c), UN Doc. CAT/C/IRQ/CO/1 (Aug. 14, 2015); See, UN Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fourth Periodic Report of Iraq*, para. 40(b), UN Doc. E/C.12/IRQ/CO/4 (Oct. 27, 2015); UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 21(c), UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).