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Human Rights Violations Against Women and Girls in Iraq

A Report for the United Nations Human Rights Committee

Submitted ahead of the review of the Government of Iraq's compliance with the International Covenant on Civil and Political Rights during its 134th session (28 Feb-28 March 2022)

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Submitted by:

MADRE
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I. Introduction

1. This report is submitted in advance of the United Nations Human Rights Committee's ("Committee") review of the Government of Iraq's compliance with the International Covenant on Civil and Political Rights ("ICCPR") during its 134th session (28 February – 25 March 2022) and in response to Iraq's replies to the Committee's List of Issues in relation to Iraq's sixth periodic report. This report aims to complement the information provided by MADRE, the Human Rights and Gender Justice Clinic of CUNY School of Law, and the Organization for Women's Freedom in Iraq (OWFI) in preparation of the List of Issues.¹ It describes persistent violations of the civil and political rights of women and girls.
2. Since the Committee's last review, the Government of Iraq ("the Government") has failed to implement recommendations to address violations of women and girls' civil and political rights. Gender-based violence remains a serious concern, encouraged by a culture of impunity. The Government has yet to pass much needed legislation or amend existing laws to address this violence, and victims lack adequate access to justice and services. The Government has also failed to meaningfully prosecute the Islamic State of Iraq and the Levant's (ISIL) gender-based crimes. Afro-descendant Iraqi women and women with disabilities in Iraq face violations of their basic rights, due to intersecting forms of stigma and discrimination.

II. Lack of accountability for crimes against women protesters and human rights defenders

Para. 23: [P]lease provide information on the safeguards that exist to ensure the rights to freedom of expression and of peaceful assembly, pursuant to articles 19 and 21 of the Covenant...Please [also] provide information on the investigations into the excessive use of force against and the deaths, arbitrary detention and mistreatment of protesters.²

Para. 24: Please provide information on steps taken to protect human rights defenders' and journalists' exercise of their right to freedom of expression...Please provide information on measures taken to ensure that all the serious human rights violations that were perpetrated were thoroughly investigated and that those responsible were brought to justice.³

3. Women human rights defenders in Iraq face multi-layered threats because they are women; prejudice and social exclusion are a backdrop to attacks against them that include sexual

¹ MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq*, at 2-7 (May 2020), <https://www.madre.org/sites/default/files/PDFs/Human%20Rights%20Violations%20Against%20Women%20and%20Girls%20in%20Iraq.pdf>.

² UN Human Rights Committee, *List of Issues in Relation to the Sixth Periodic Report of Iraq*, para. 23, UN Doc. CCPR/C/IRQ/Q/6 (August 17, 2019).

³ *Ibid*, para. 24.

violence, torture, and murder.⁴ Despite these hurdles, Iraqi women and girls defied patriarchal gender norms to participate on the front lines of demonstrations in 2019 and 2020.⁵ Many faced violence as a result, including threats, physical attacks, torture, murder, and sexual violence.⁶ In one instance, unidentified armed actors abducted at least four women activists connected to the protests. After their release, the women described being beaten, sexually assaulted, and threatened with rape.⁷ Prominent women human rights defenders were targeted for assassination for participating in the demonstrations.⁸ In separate incidents in August 2020, unidentified gunmen shot at two women human rights defenders that had led women's marches.⁹

4. The Government has failed to act with due diligence to prevent or investigate these attacks. The women targeted in August 2020 had received threats previously, but the Government failed to provide protection for them.¹⁰ As of August 2020, human rights monitors could identify no cases where the Government held perpetrators accountable for attacks on women who participated in the demonstrations.¹¹
5. Outside of the context of the 2019 and 2020 demonstrations, women human rights defenders face threats and attacks on a regular basis in Iraq. Between January and September 2021, MADRE and OWFI documented three incidents of threats or attacks against women human rights defenders.¹² One human rights defender's son was killed for his affiliation with his mother's human rights work and organization.¹³ Unfortunately, in its response to the Committee's List of Issues, the Government fails to provide any

⁴ OHCHR, *UN Experts Call on Iraq to Investigate Attacks on Women Human Rights Defenders* (Oct. 2, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26339&LangID=E>

⁵ UNAMI, *Human Rights Violations and Abuses in the Context of Demonstrations in Iraq October 2019 to April 2020*, at 42 (Aug. 2020), https://reliefweb.int/sites/reliefweb.int/files/resources/Demonstrations%20in%20Iraq_UNAMI%20OHCHR%20report_08%2027%202020.pdf; P. Magid, *Women in Iraq Defiantly Take to the Streets Despite Fears They 'Could Die at Any Moment'*, THE INDEPENDENT, (Nov. 23, 2019), <https://www.independent.co.uk/news/world/middle-east/iraq-protests-women-streets-death-torture-revolution-tahir-square-a9213976.html>; Arwa Ibrahim, *The Women on the Frontline of Iraq's Uprising*, AL JAZEERA (Dec. 5, 2019), <https://www.aljazeera.com/news/2019/12/women-frontline-iraq-uprising-191205085107123.html>; Qassim Abdul-Zahra, *Women Protesters in Iraq Defy Radical Cleric, Take to Streets*, AP NEWS (Feb. 13, 2020), <https://apnews.com/d584ba1f43af00804d32db7c436f4622>.

⁶ UNAMI, *Human Rights Violations and Abuses in the Context of Demonstrations in Iraq October 2019 to April 2020*, at 43 (Aug. 2020), https://reliefweb.int/sites/reliefweb.int/files/resources/Demonstrations%20in%20Iraq_UNAMI%20OHCHR%20report_08%2027%202020.pdf

⁷ *Ibid.*

⁸ *Ibid.*

⁹ OHCHR, *UN Experts Call on Iraq to Investigate Attacks on Women Human Rights Defenders* (Oct. 2, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26339&LangID=E>.

¹⁰ *Ibid.*

¹¹ UNAMI, *Human Rights Violations and Abuses in the Context of Demonstrations in Iraq October 2019 to April 2020*, at 43 (Aug. 2020), https://reliefweb.int/sites/reliefweb.int/files/resources/Demonstrations%20in%20Iraq_UNAMI%20OHCHR%20report_08%2027%202020.pdf

¹² MADRE, *Interim Report – Documentation of Threats and Violence Against At-Risk and Marginalized Groups in Iraq* at 8 (September 2021), on file with MADRE.

¹³ Azhar Al-Rubaie, *Iraq: Son of prominent women's rights activist found shot dead near Basra*, Middle East Eye (July 25 2021), <https://www.middleeasteye.net/news/iraq-son-prominent-iraqi-rights-activist-shot-dead-near-basra>

information regarding the protection of women human rights defenders and to indicate whether it has taken any measure to hold perpetrators accountable.

6. With respect to crimes committed in relation to the 2019 and 2020 demonstrations, the Government stated that it opens investigations and holds perpetrators accountable in proven cases of human rights violation committed against peaceful demonstrators, including by Ministry of the Interior officers.¹⁴ However, the Government fails to provide concrete examples or statistics to support this claim. The Government also stated that individuals injured during the protests and families of those killed would receive financial compensation from the Martyrs Foundation, and that appropriate health care would be provided to the injured.¹⁵ While compensation does not replace the obligation to investigate credible allegations of human rights violations, it is also unclear how many survivors have been compensated as the Government has failed to provide any data. As of May 2021, out of 47 families of victims interviewed by UN monitors, only 3 had received money, while 27 noted that they had been in contact with the Martyrs Foundation but had not received anything yet.¹⁶ This contrasts with claims by the Head of the Terrorism Directorate of the Martyrs Foundation who told UNAMI in January 2021 that “over 90 per cent” of demonstration-related martyr families had received financial compensation.¹⁷
7. The Government’s response to violations committed during the demonstrations has otherwise been limited to the creation of investigative bodies and committees, statements, and the reassignment of officials. Only two cases of crimes committed against protesters by low-ranking members of the police forces have progressed to trial and conviction, none of them related to crimes committed against women during the protests.¹⁸ To date, there is no information that a single person who committed crimes against women involved in the protests has been held accountable.
8. Freedom of expression is often under attack more broadly in Iraq as journalists regularly encounter violence and threats as a consequence of their work. Between January and September 2021, MADRE and OWFI documented 10 incidents of threats and violence against journalists, half of which were committed by government officials or security forces. Four incidents involved arbitrary detention, two involved assassination attempts,

¹⁴ Government of Iraq, *Replies of Iraq to the list of issues in relation to its sixth periodic report*, paras. 124-126, UN Doc. CCPR/C/IRQ/RQ (08 April 2021).

¹⁵ *Ibid.*

¹⁶ UNAMI, *Update on Demonstrations in Iraq: Accountability for Human Rights Violations and Abuses by Unidentified Armed Elements*, at 11 (May 2021), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_Accountability_for_Human_Rights_Violations_and_Abuses_ENG.pdf

¹⁷ *Ibid.*

¹⁸ UNAMI, *Update on Demonstrations in Iraq: Accountability for Human Rights Violations and Abuses by Unidentified Armed Elements*, at 9 (May 2021), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_Accountability_for_Human_Rights_Violations_and_Abuses_ENG.pdf, Regarding measures taken to investigate human rights violations perpetrated during the demonstrations, the Government of Iraq gives only a short and vague response to the List of Issues, recalling that investigations committees have been established Government of Iraq, *Replies of Iraq to the list of issues in relation to its sixth periodic report*, para 127, UN Doc. CCPR/C/IRQ/RQ (08 April 2021).

two involved torture and one involved the killing of a journalist.¹⁹ On July 27, 2021, for example, a journalist in Salahuddin province was reporting on bombings and attacks on electric transmission towers, which interviewees on site stated had been attacked by militias. As the journalist was concluding his interviews, militias arrived and attacked him. They broke his camera and threatened to kill him if the report was published.²⁰

*Please see pages 2-7 in the OWFI, MADRE, et al., Human Rights Violations Against Women and Girls in Iraq List of Issues submission for additional information on human rights violations during the protests in Iraq.*²¹

A. Recommendations to the Government of Iraq

9. We ask the Committee to consider the following recommendations to the Government of Iraq:
10. In line with this Committee's 2015 recommendation, the Government should "ensure that all instances of excessive use of force are promptly, impartially and effectively investigated and those responsible brought to justice. It should also take measures to effectively prevent and eradicate all forms of excessive use of force by law-enforcement and security officials..."²²
11. In line with recent recommendations from the UN Special rapporteur on the situation of human rights defenders; the Working Group on discrimination against women and girls; and the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Government should conduct prompt, impartial, and thorough investigations on attacks against women human rights defenders, including attacks against women human rights defenders that participated in protests, and ensure perpetrators are held accountable.²³
12. The Government should take the necessary measures to ensure freedom of press; conduct prompt, impartial, and thorough investigations into allegations of threats or violence against journalists; and hold perpetrators accountable.

III. Domestic violence

¹⁹ MADRE, *Interim Report – Documentation of Threats and Violence Against At-Risk and Marginalized Groups in Iraq* at 9-10 (September 2021), on file with MADRE.

²⁰ MADRE, *Interim Report – Documentation of Threats and Violence Against At-Risk and Marginalized Groups in Iraq* at 9-10 (September 2021), on file with MADRE.

²¹ MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq*, at 2-7 (May 2020), <https://www.madre.org/sites/default/files/PDFs/Human%20Rights%20Violations%20Against%20Women%20and%20Girls%20in%20Iraq.pdf>.

²² Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 42, UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

²³ OHCHR, *UN Experts Call on Iraq to Investigate Attacks on Women Human Rights Defenders* (Oct. 2, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26339&LangID=E>.

Para. 6: Please provide information on the measures taken to ensure equality between men and women...[P]lease provide information on measures taken to repeal all provisions that discriminate on the basis of sex in the Criminal Code, the Code of Criminal Procedure and other legislation, regulations and directives, including the provisions on...(b) domestic violence, contained in article 41 (1) of the Criminal Code. Please also provide updated information on the draft act on protection against domestic violence and indicate whether it is in line with the Covenant.²⁴

13. More than 12 thousand domestic violence cases were reported in Iraq in 2020, a significant rise compared to previous years.²⁵ Iraq's draft Family Violence Protection Law, also known as the Anti-Domestic Violence Law, first introduced in 2015 in the Iraqi Parliament, includes key provisions to address domestic violence and protect victims, including establishment of restraining orders, penalties for violations, and victims' services.²⁶ Amidst the pandemic and unrest in certain parts of the country, the Council of Ministers in Baghdad has taken a step toward addressing the dramatic increase in domestic violence by approving a draft law containing the most progressive provisions on the issue to date in Iraq.²⁷
14. An earlier draft of the law was sent to Parliament by the President's Office, and both drafts of the law will be sent to Parliament's Legal Committee to merge into one bill. Importantly, only one version of the law – signed by the President's office – includes a provision allowing for NGO-run shelters for victims of domestic violence,²⁸ after years of calls for this provision from Iraqi civil society organizations, international human rights bodies, and UN entities.²⁹
15. Passing a domestic law with the shelter provision would create a mechanism for the government to officially work with privately-run shelters already in operation, ultimately saving lives. NGO-run shelters are essential components of protecting victims of domestic violence and providing refuge and services to those fleeing violence in their homes or communities. A provision allowing for NGO-run shelters must be included in the final version of the draft law if Iraq is to uphold its obligations under the Covenant.

²⁴ UN Human Rights Committee, *List of Issues in Relation to the Sixth Periodic Report of Iraq*, para. 6, UN Doc. CCPR/C/IRQ/Q/6 (August 17, 2019).

²⁵ See Alhurra [News Article](#) only available in Arabic (Dec 7, 2020)

²⁶ American Bar Association, *Iraq: Domestic Violence Legislation* (July 17, 2019); Human Rights Watch, *Iraq: Strengthen Domestic Violence Bill* (March 19, 2017).

²⁷ Al Sumaria, "[The Cabinet approves the Domestic Violence Bill and sends it to Parliament](#)", August 4, 2020. Article only available in Arabic

²⁸ The draft signed by the President's office can be found here (only in Arabic): <https://presidency.iq/Details.aspx?id=8355>

²⁹ See Lisa Davis, *Countering Iraq's Anti-Shelter Policy in the Islamic State Era*, Journal of International Affairs, SIPA, Columbia (March 18, 2018), <https://jia.sipa.columbia.edu/countering-iraq%E2%80%99s-anti-shelter-policy-islamic-state-era>; UN Committee Against Torture, *Concluding Observations on the Initial Report of Iraq*, *Advanced Unedited Version*, para. 24(d), UN Doc. CAT/C/IRQ/CO/1 (Aug. 14, 2015); 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); 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); 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).

16. To date, the Government of Iraq has failed in its obligation under the Covenant to take proper measures to protect and promote the rights of victims of torture, “honor killings,” or other forms of domestic violence in need of shelter.³⁰ Women or marginalized persons who are discovered to be housed in a privately-run shelters are seriously endangered by government authorities, since police may send survivors back to their families – the same families who put them in danger of violence in the first place.³¹ In this way, government policy prohibiting privately-operated shelters puts women and marginalized people at risk of “honor” killings and other forms of domestic violence, and may lead to torture or death. The passage of the above-mentioned law has been under discussion for almost a decade, a long period during which Iraqi NGOs have found themselves at great risk for trying to fill the gap left by the absence of comprehensive legislation³²
17. Recognizing this link between Iraq’s policy and the risk of violence, in 2015 the Committee Against Torture (“CAT Committee”) found that a lack of shelters exacerbates the risk of torture and violates a state’s obligation to protect and prevent torture,³³ and called on the Iraqi Government to legally permit privately-run shelters.³⁴ In October 2015, the Committee on Economic, Social, and Cultural Rights (“CESCR Committee”) echoed this call and recommended that the government increase “efforts to provide support and assistance services to victims of violence, including through the creation of well-resourced shelters in all regions of the State party, and the empowering of civil society to continue providing shelters and other related services, including awareness-raising and information campaigns.”³⁵ In December 2015, this Committee echoed the CAT Committee and voiced concern about the prohibition of NGO-run shelters for domestic violence victims. This Committee called on the Government to ensure victims have access to State and NGO-run shelters and to adopt the pending draft law on domestic violence.³⁶ Recently in November 2019, the Committee on the Elimination of Discrimination against Women (“CEDAW Committee”) also observed with concern the “insufficient number and capacity of State-run shelters for victims of gender-based violence.”³⁷

³⁰ See International Covenant on Civil and Political Rights arts. 2, 3, 6, 7, 12, & 26.

³¹ Lisa Davis, *Countering Iraq’s Anti-Shelter Policy in the Islamic State Era*, Journal of International Affairs, SIPA, Columbia (March 28, 2018), <https://jia.sipa.columbia.edu/countering-iraq%E2%80%99s-anti-shelter-policy-islamic-state-era>.

³² Tuqa Abdul Rahim, *The Anti-Domestic Violence Bill on the Voting Table*, Al-Bayan Center for Planning and Studies (March 9 2020), <https://www.bayancenter.org/en/2020/09/2122/>, see also OWFI’s, *Legislative Reform*, <http://www.owfiraq.org/legislative-reform.html>

³³ Lisa Davis, *Countering Iraq’s Anti-Shelter Policy in the Islamic State Era*, Journal of International Affairs, SIPA, Columbia (March 28, 2018), <https://jia.sipa.columbia.edu/countering-iraq%E2%80%99s-anti-shelter-policy-islamic-state-era>.

³⁴ UN Committee Against Torture, *Concluding Observations on the Initial Report of Iraq, Advanced Unedited Version*, para. 24(d), UN Doc. CAT/C/IRQ/CO/1 (Aug. 14, 2015).

³⁵ 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 (October 27, 2015).

³⁶ 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).

³⁷ 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).

Please see pages 23-28 in the OWFI, MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq List of Issues submission for additional information on Iraq's draft Family Violence Protection Law and the provision of shelter for women and girls fleeing violence*.³⁸

A. Recommendations to the Government of Iraq

18. We ask the Committee to consider the following recommendation to the Government of Iraq: In line with the CAT Committee's 2015 recommendation, the Government should "enact comprehensive legislation" through the Family Violence Protection Law "to combat domestic and gender-based violence," including the provision "permitting privately run shelters."³⁹

IV. "Honor" Killings

Para. 6: Please provide information on the measures taken to ensure equality between men and women...[P]lease provide information on measures taken to repeal all provisions that discriminate on the basis of sex in the Criminal Code, the Code of Criminal Procedure and other legislation, regulations and directives, including the provisions on...(c) so-called honour killings, contained in article 409 of the Criminal Code.⁴⁰

19. "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.⁴¹ 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 2017.⁴² While there are no precise recent statistics available, according to news reports there appears to have been a steep increase in honor killings in both Iraq and Kurdistan.⁴³

³⁸ MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq*, at 23-28 (May 2020), <https://www.madre.org/sites/default/files/PDFs/Human%20Rights%20Violations%20Against%20Women%20and%20Girls%20in%20Iraq.pdf>.

³⁹ UN Committee against Torture, *Concluding Observations on the Initial Report of Iraq*, para. 24(d), UN Doc. CAT/C/IRQ/CO/1 (September 7, 2015).

⁴⁰ UN Human Rights Committee, *List of Issues in Relation to the Sixth Periodic Report of Iraq*, para. 6, UN Doc. CCPR/C/IRQ/Q/6 (August 17, 2019).

⁴¹ 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>.

⁴² UNAMI & OHCHR *Report on Human Rights in Iraq: July to December 2017*, at 12 (Jul. 8, 2018), <https://www.refworld.org/docid/5b6afc544.html>.

⁴³ Julie Bindel, *As if She Had Never Existed : The Graveyards for Murdered Women*, AL JAZEERA (March 8, 2021), <https://www.aljazeera.com/features/2021/3/8/as-if-she-had-never-existed-the-graveyards-for-murdered-women>

20. Moreover, available statistics likely undercount “honor” killings due to lack of reporting, and they are frequently concealed as accidents or suicides to avoid prosecution.⁴⁴ 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.⁴⁵ 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.⁴⁶ Between August and September 2018 alone, four prominent Iraqi women were assassinated.⁴⁷ In May 2020, OWFI was notified of 3 honor killings in the Baiji area of Salahuddin. While their death certificates spoke of suicide, OWFI obtained information that they were suffocated and then burned.⁴⁸ Between May 2020 and May 2021, the targeted killing of one and the attempted murder of two women were documented. All of them were considered influential critical voices in Iraq.⁴⁹

21. 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.”⁵⁰ In Kurdistan, parliament amended the penal code to suspend Article 409,⁵¹ however local advocates note that Kurdish authorities issue an amnesty every four years, including for

;Dana Taib Menmy, *Alarming Increase in ‘Honor Killing’ of Kurdish and Iraqi Women*, Inside Arabia (Jan. 1, 2021), <https://insidearabia.com/alarming-increase-in-honor-killing-of-kurdish-and-iraqi-women/>.

⁴⁴ 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>; 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).

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

⁴⁶ 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>.

⁴⁷ 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*, NY TIMES (Sept. 29, 2018), <https://www.nytimes.com/2018/09/29/world/middleeast/tara-fares-iraq-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-iraq-heres-what-headlines-missed-about-their-cause/>.

⁴⁸ Internal Note on File with MADRE, Sep 20, 2020

⁴⁹ UNAMI, *Update on Demonstrations in Iraq: Accountability for Human Rights Violations and Abuses by Unidentified Armed Elements*, at 16 (May 2021), https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Report_Accountability_for_Human_Rights_Violations_and_Abuses_ENG.pdf

⁵⁰ 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>.

⁵¹ Parliament of Kurdistan, Law No. 3 of 2015, t.ly/OEpe

those accused of “honor” killings.⁵² Law enforcement, often viewing violence against family members as a private matter, is reluctant to investigate such crimes and hold perpetrators accountable.⁵³ Women have also been held in prisons or detention centers in order to protect them from potential “honor” killings.⁵⁴ In its response to the List of Issues, the Government of Iraq provides no information indicating that any concrete steps have been taken to change laws or practice with respect to honor killings and continues to uphold its stance that the phrase “honorable motives” in the Penal Code covers does not exclusively relate to crimes affecting women and therefore cannot be considered discriminatory against women. In doing so, the Government fails to acknowledge that the defense is disproportionately used to the benefit of people who exercise violence against women and is not a justification for murder (or any other human rights violation) under international law.⁵⁵ It vaguely mentions that draft amendments to the articles in question are under consideration by the Council of State, without explaining what such amendments may entail.⁵⁶

*Please see pages 7-10 in the OWFI, MADRE, et al., Human Rights Violations Against Women and Girls in Iraq List of Issues submission for additional information on “honor” killings in Iraq.*⁵⁷

A. Recommendations to the Government of Iraq

22. We ask the Committee to consider the following recommendations to the Government of Iraq:

23. In line with the CEDAW Committee’s 2019 recommendation, the Government should “[a]dopt a comprehensive strategy to eliminate discriminatory stereotypes and all harmful practices, such as...crimes committed in the name of “honour”⁵⁸ and “[r]epeal articles 128, 130 and 131 of the Penal Code to ensure that perpetrators of crimes committed in the name of ‘honour’ cannot invoke the defence of honour as a mitigating circumstance for homicide.”⁵⁹

⁵² Correspondence with Iraqi human rights advocates (Apr. 30, 2020) (on file with MADRE).

⁵³ 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>.

⁵⁴ 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>.

⁵⁵ Belkis Wille, *Bride’s Killing in Iraq Shows New Law Needed*, Human Rights Watch (Aug. 8, 2018), <https://www.hrw.org/news/2018/08/08/brides-killing-iraq-shows-new-law-needed>; 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).

⁵⁶ Government of Iraq, *Replies of Iraq to the list of issues in relation to its sixth periodic report*, paras. 26-27, UN Doc. CCPR/C/IRQ/RQ (08 April 2021).

⁵⁷ MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq*, at 7-10 (May 2020), <https://www.madre.org/sites/default/files/PDFs/Human%20Rights%20Violations%20Against%20Women%20and%20Girls%20in%20Iraq.pdf>.

⁵⁸ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 20(a), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

⁵⁹ *Ibid*, para. 20(b).

24. In line with this Committee's 2015 recommendation, the Government should "[s]wiftly amend its legislation to guarantee adequate protection of women against violence, including by repealing the Criminal Code provisions establishing 'honourable motives' as a mitigating circumstance for murder."⁶⁰

V. Early, "temporary," and forced marriages

Para. 28 Please comment on reports of the persistence of the practice of early, "temporary", and forced marriages in the State party.⁶¹

25. Early, "temporary," and forced marriages persist in Iraq. While Article 7 of the Personal Status Law No. 188 of 1959 sets the legal age for both men and women at 18 years, it allows for marriage of 15-year-olds with a guardian's consent and judicial permission.⁶² Under the Personal Status Law, a forced marriage can be considered null and void only if it has not been consummated.⁶³ This leaves victims responsible for pursuing legal measures to leave the marriage, opening them up to potential retribution from their families.⁶⁴ In Kurdistan, the 2011 Domestic Violence Law prohibits forced and early marriages,⁶⁵ however advocates note that the law has not been adequately implemented and these practices are common.⁶⁶
26. According to UNICEF, in 2018, 7.2 percent of girls aged 20-24 years in Iraq were married before the age of 15 and 28 percent before the age of 18.⁶⁷ According to a 2018 survey conducted on 492 households in Basra, approximately 19 percent reported an incident of forced marriage in the previous year.⁶⁸ One recent emblematic case is the one of a 12-year old girl, who was forcibly married to, and raped by, an older man in late 2021.⁶⁹ 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.⁷⁰ In addition, women and girls

⁶⁰ 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).

⁶¹ UN Human Rights Committee, *List of Issues in Relation to the Sixth Periodic Report of Iraq*, para. 28, UN Doc. CCPR/C/IRQ/Q/6 (August 17, 2019).

⁶² Iraq Personal Status Law No. 188, art. 7-8.

⁶³ *Ibid*, art. 9.

⁶⁴ 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.

⁶⁵ Act. No. 8 of 2011, art. 2

⁶⁶ Correspondence with Iraqi human rights advocates (Apr. 30, 2020) (on file with MADRE).

⁶⁷ UN Children's Fund (UNICEF), *Multiple Indicator Cluster Survey Briefing 2018*, at 37 (2018), <https://www.unicef.org/iraq/media/481/file/MICS6.pdf>.

⁶⁸ 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.

⁶⁹ Layal Shakir, *Women protest child marriage in Baghdad*, RUDAW (Nov. 21 2021), <https://www.rudaw.net/english/middleeast/iraq/21112021>.

⁷⁰ 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*

who were married to ISIL fighters—including those in coerced marriages—risk discrimination and forms of collective punishment.⁷¹ In its response to the List of Issues, the Government of Iraq provides no updated information on the issues.⁷²

*Please see pages 10-12 in the OWFI, MADRE, et al., Human Rights Violations Against Women and Girls in Iraq List of Issues submission for additional information on early, “temporary,” and forced marriages.*⁷³

A. Recommendations to the Government of Iraq

27. We ask the Committee to consider the following recommendations to the Government of Iraq:

28. In line with this Committee’s 2015 recommendation, the Government should “strengthen its efforts to prevent and eradicate harmful practices that discriminate against women and girls, particularly early, “temporary” and forced marriages...including by taking more vigorous measures to generate public awareness about their negative effects.”⁷⁴

VI. Trafficking and enslavement

Para 21 [P]lease provide information on the impact of Act No. 28 of 2012...Please provide information on measures taken to combat the increasing incidence of internal and cross-border trafficking in women and children. Please provide information on the number of shelters available in the State party for victims of trafficking and clarify whether the refurbishment of the shelter in the Salikh neighbourhood has been concluded.⁷⁵

Trafficking and forced prostitution

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.

⁷¹ 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/UNAMIREport22Aug2017_EN.pdf.

⁷² Government of Iraq, *Replies of Iraq to the list of issues in relation to its sixth periodic report*, par.138, UN Doc. CCPR/C/IRQ/RQ (08 April 2021).

⁷³ MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq*, at 10-12 (May 2020), <https://www.madre.org/sites/default/files/PDFs/Human%20Rights%20Violations%20Against%20Women%20and%20Girls%20in%20Iraq.pdf>.

⁷⁴ 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).

⁷⁵ UN Human Rights Committee, *List of Issues in Relation to the Sixth Periodic Report of Iraq*, para. 21, UN Doc. CCPR/C/IRQ/Q/6 (August 17, 2019).

29. Iraq ratified the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons⁷⁶ and passed its own anti-trafficking law, Trafficking in Persons Act No. 28 of 2012;⁷⁷ along with 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.⁷⁸ Under Law No. 28, the Government opened investigations into 356 trafficking cases from April 2018 to March 2019.⁷⁹ Of the 148 identified victims, 74 were female victims of sexual exploitation.⁸⁰ 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.⁸¹ In 2018, the Kurdish parliament approved the 2012 Iraqi anti-trafficking law, but as of March 2019 had yet to develop the regulatory and enforcement framework for its implementation.⁸²
30. Trafficking survivors in Iraq lack access to basic protection, services, and justice; and they may become targets of prosecution for acts resulting from their trafficked status.⁸³ 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.⁸⁴ First responders and judges are unaware of human trafficking legislation and do not enforce the laws appropriately.⁸⁵ Authorities have failed to identify trafficking victims among vulnerable populations and continue to imprison and prosecute them for acts traffickers forced them to commit.⁸⁶ Moreover, deficiencies in the Government's identification and referral procedures also prevent many victims from accessing care.⁸⁷ 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.⁸⁸ They may also force them to take a "virginity test" in order to consider their case. In August 2021, a 13-year-old girl, who was staying in one

⁷⁶ UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, art. 9(4), November 15, 2000, 2237 UNT.S. 319 (Iraq acceded to the Protocol on February 9, 2009).

⁷⁷ 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).

⁷⁸ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, paras. 156-157, para.161 and paras.171-172, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

⁷⁹ 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>.

⁸⁰ *Ibid*, at 247-248.

⁸¹ *Ibid*, at 248.

⁸² *Ibid*, at 247.

⁸³ *Ibid*, at 248.

⁸⁴ 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>.

⁸⁵ Finnish Immigration Service, *Overview of the Status of Women Living Without a Safety Net in Iraq*, at 28 (May 22, 2018), https://migi.fi/documents/5202425/5914056/Report_Women_Iraq_Migri_CIS.pdf/ab7712ba-bad7-4a1f-8c1f-f3f4013428a7/Report_Women_Iraq_Migri_CIS.pdf.

⁸⁶ 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>.

⁸⁷ *Ibid*, at 247-248.

⁸⁸ *Ibid*, at 248.

of OWFI's shelter had no choice but to take a "virginity test" in Karbala.⁸⁹ Because of these requirements many victims do not come forward, fearing retaliation, and are left without access to protection services.⁹⁰

31. The Government has also passed Regulation No. 7 of 2017 regarding shelters for trafficking victims.⁹¹ Officials claim that one shelter is ready to admit survivors in Baghdad, with fifteen social workers to attend to cases.⁹² The Government is also refurbishing a shelter for trafficking victims in the Salikh neighbourhood, but does not provide a reopening date or more clarity regarding the refurbishing process.⁹³ Based on the information OWFI has been able to gather, the shelter has been refurbished and currently houses minor girls only, in prison-like conditions. The Government also does not provide information on how many victims are housed in its shelters. According to one report, seven women had access to one shelter in 2018,⁹⁴ and NGOs report that the shelters provided inadequate psychosocial, medical, and vocational support to recipients.⁹⁵

Enslavement

32. While Iraq's Constitution prohibits slavery and the slave trade⁹⁶ and Iraqi law does recognize universal jurisdiction for trading in women, children, and enslaved people when committed outside of Iraq,⁹⁷ there is no penal code provision criminalizing slavery. Existing laws such as Law No. 28 of 2012 on Combating Trafficking in Persons⁹⁸ are improper and inadequate to prosecute the conduct of enslavement. While Law No. 28 lists enslavement and sexual abuse as forms of exploitation resulting from human trafficking, the law itself does not criminalize enslavement or sexual abuse.⁹⁹ These inadequacies in the anti-trafficking law create an impunity gap. Persons who were enslaved, not through

⁸⁹ Information on file with OWFI.

⁹⁰ 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>.

⁹¹ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, paras. 156-157, para.161 and paras.171-172, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

⁹² *Ibid*, paras. 165-166.

⁹³ *Ibid*, para. 160.

⁹⁴ 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>.

⁹⁵ *Ibid*.

⁹⁶ Constitution of the Republic of Iraq (Iraq), art. 37 (Third), October 15, 2005, IRQ-2005-C-73414, <https://constitutions.unwomen.org/en/countries/asia/iraq>. "Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited."

⁹⁷ Iraq Penal Code (Iraq), section 4, art. 13, July 1969, No. 111 of 1969, <https://www.refworld.org/docid/452524304.html>. "In circumstances other than those stipulated in Articles 9, 10 and 11, the provisions of this Code are applicable to all those who enter Iraq subsequent to committing an offence abroad whether as principals or accessories to the following offences: Destroying or causing damage to international means of communications or trading in women, children, slaves or drugs."

⁹⁸ 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.

⁹⁹ Law No. 28 of 2012, Combating Trafficking in Persons (Iraq), art. 10, 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. "Consent by a victim to human trafficking shall not be accepted as a defense."

trafficking but by other means, may be excluded altogether from accessing justice under the anti-trafficking law.

33. Experiences of enslavement are inherently gendered and the violence that enslaved women face goes beyond specific acts of sexual assault.¹⁰⁰ For example, in addition to sexual violence, women and girls held in sexual slavery by ISIL were forced to perform various humiliating acts for their owners, strip naked,¹⁰¹ consume drugs to hasten physical maturation,¹⁰² undergo forced physical examinations, and experience the trauma and humiliation of being sold multiple times.¹⁰³ These crimes of slave trade and slavery are gendered and must be recognized and accounted for.

34. In response to this Committee's 2015 recommendation that the Government of Iraq investigate all serious human rights violations including enslavement and bring perpetrators to justice,¹⁰⁴ the Government claims broadly that it has taken necessary legal steps to investigate serious human rights violations,¹⁰⁵ and that the ISIL Crime Investigation Unit prepared hundreds of legal files for cases related to slavery.¹⁰⁶ However, there is no information provided on any cases or ongoing prosecutions for the crime of enslavement.

*Please see pages 12-20 in the OWFI, MADRE, et al., Human Rights Violations Against Women and Girls in Iraq List of Issues submission for additional information on trafficking, forced prostitution, and enslavement in Iraq.*¹⁰⁷

¹⁰⁰ Patricia Viseur Sellers & Jocelyn Getgen Kestenbaum, *Sexual Slavery and Customary International Law*, Prosecuting the President: The Trial of Hissène Habré, Yeshiva University, Cardozo School of Law, at 11 (2020), <https://larc.cardozo.yu.edu/cgi/viewcontent.cgi?article=1089&context=faculty-chapters>; see also, Patricia Sellers, *Wartime Female Slavery: Enslavement*, 44 Cornell Int'l L. J. 115, at 124 (2011), <https://www.lawschool.cornell.edu/research/ILJ/upload/Sellers-final-version.pdf>.

¹⁰¹ See, e.g., Adam Withnall, *ISIS Sex Slaves 'sold at market for as little as a pack of cigarettes' as Life under Jihadis is Exposed*, INDEPENDENT (June. 9, 2015), <https://www.independent.co.uk/news/world/middle-east/isis-sex-slaves-sold-at-market-for-as-little-as-a-pack-of-cigarettes-as-life-under-jihadis-is-10306639.html>. “UN envoy on sexual violence, said she had been to Syria and Iraq in recent months and found a war “being fought on the bodies of women.” N.M., *I Was an ISIS Sex slave. I Tell My Story Because it is the Best Weapon I Have*, THE GUARDIAN, (Oct. 6, 2018), <https://www.theguardian.com/commentisfree/2018/oct/06/nadia-murad-isis-sex-slave-nobel-peace-prize>.

¹⁰² Fred Strasser, United States Institute of Peace, *ISIS Makes Sex Slavery Key Tactic of Terrorism Action against Violent Extremism Must Address Abuse of Women*, UN Official Says (Oct. 6, 2016), <https://www.usip.org/publications/2016/10/isis-makes-sex-slavery-key-tactic-terrorism>.

¹⁰³ Office of the Special Representative of the UN Secretary General on Sexual Violence in Conflict, *Escaping From ISIL, a Yazidi Sexual Violence Survivor Rebuilds Her Life* (Jul. 10, 2018), <https://www.un.org/sexualviolenceinconflict/escaping-from-isil-a-yazidi-sexual-violence-survivor-rebuilds-her-life/>.

¹⁰⁴ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, paras. 19-20(a), UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

¹⁰⁵ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, paras. 30-31, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019); Government of Iraq, *Replies of Iraq to the list of issues in relation to its sixth periodic report*, par. 112, UN Doc. CCPR/C/IRQ/RQ (08 April 2021).

¹⁰⁶ Government of Iraq, *Replies of Iraq to the list of issues in relation to its sixth periodic report*, par. 17, UN Doc. CCPR/C/IRQ/RQ (08 April 2021).

¹⁰⁷ MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq*, at 12-20 (May 2020), <https://www.madre.org/sites/default/files/PDFs/Human%20Rights%20Violations%20Against%20Women%20and%20Girls%20in%20Iraq.pdf>.

A. Recommendations to the Government of Iraq

35. We ask the Committee to consider the following recommendations to the Government of Iraq:
36. In line with this Committee's 2015 recommendation, the Government should "further strengthen its efforts to combat, prevent, eradicate and punish trafficking in persons."¹⁰⁸ The Government should "ensure that all cases of human trafficking...are thoroughly investigated, that perpetrators are brought to justice, and that victims receive full reparation and means of protection, including access to adequately resourced shelters. It should also adopt the measures necessary to guarantee that victims, in particular victims of sex trafficking, are not punished for activities carried out as a result of having been subjected to trafficking."¹⁰⁹
37. In line with the CEDAW Committee's 2019 recommendation, the Government should "provide training to the judiciary, law enforcement officers and border police on the early identification of women and girls who are victims of trafficking."¹¹⁰

VII. Lack of accountability for sexual and gender-based violence committed by ISIL

Para. 4 Please indicate whether there is a prosecution strategy in place that gives priority to addressing the worst human rights abuses. Please explain the low number of prosecutions in cases involving sexual offences committed by ISIL members against Yazidi women and girls during the armed conflict.¹¹¹

Para. 17 Please provide information on the measures taken to combat discrimination against and stigmatization of women and children with perceived ties to ISIL who are living in camps for internally displaced persons. Please comment on reports that those women and children are subjected to multiple violations, including being denied access to food, water and health care; not having access to identity cards and other civil documents which facilitate their access to many social services; being subjected to severe restrictions on movement; and being subjected to sexual violence, including rape and sexual exploitation.¹¹²

¹⁰⁸ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 32, UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

¹⁰⁹ *Ibid.*

¹¹⁰ UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para. 24(e), UN CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

¹¹¹ UN Human Rights Committee, *List of Issues in Relation to the Sixth Periodic Report of Iraq*, para. 4, UN Doc. CCPR/C/IRQ/Q/6 (August 17, 2019).

¹¹² *Ibid.*, para. 17.

38. Despite plentiful evidence with which to indict,¹¹³ ISIL fighters have not been prosecuted for sexual and gender-based crimes committed in Iraq.¹¹⁴ Instead, ISIL fighters are charged under counter-terrorism laws and tried in domestic trials.¹¹⁵ Convictions are based on the accused's ties to ISIL, rather than on the specific nature and type of crimes committed, and do not take into account the nature of the accused's connection to ISIL, such as through coercion or family relations.¹¹⁶ This low bar for mass conviction means that courts are not investigating these most egregious crimes, including gender-based crimes.¹¹⁷ Additionally, victims are often uninformed of when or where alleged perpetrators are being brought to trial, denying them the opportunity to participate.¹¹⁸
39. According to the Government's Response, the authorities, including the Supreme Judicial Council, have taken steps to bring perpetrators of sexual violence that accompanied the terrorist crimes committed by ISIL to justice. Although the Government states that "appropriate sentences have been handed down" it fails to provide any detailed information on the number of cases and severity or nature of the sentences.¹¹⁹ The precise steps taken by the Government remain unclear.

¹¹³ 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.

¹¹⁴ UN Secretary-General, *Conflict-Related Sexual Violence*, para. 25, UN Doc. S/2019/280 (Mar. 29, 2019).

¹¹⁵ 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*, NY TIMES (Apr. 17, 2018), <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>.

¹¹⁶ 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*, NY TIMES (Apr. 17, 2018), <https://www.nytimes.com/2018/04/17/world/middleeast/iraq-isis-trials.html>.

¹¹⁷ 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>.

¹¹⁸ 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>.

¹¹⁹ Government of Iraq, *Replies of Iraq to the list of issues in relation to its sixth periodic report*, paras. 14-15, UN Doc. CCPR/C/IRQ/RQ (08 April 2021).

40. In its response to the List of Issues, the Government states that a specific prosecution strategy is “not required” because the justice system investigates and processes every case brought before it. It should be noted that in the context of large-scale atrocities and sexual and gender-based crimes such as the ones committed by ISIL in Iraq, a specific prosecution strategy is key to ensuring that all elements of crimes are sufficiently proven. It also allows to make strategic and equitable decisions regarding which crimes and alleged perpetrators to focus on.¹²⁰
41. Women and girl survivors of ISIL’s gender-based crimes remain vulnerable to discrimination and social stigma because of their perceived ties to ISIL.¹²¹ For example, though a Yazidi spiritual leader called for the reintegration of women and girl survivors of ISIL enslavement, survivors still reportedly experience stigma and discrimination.¹²² 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.¹²³ Some of these women and families cannot return home out of fear of reprisals or direct threats to their lives,¹²⁴ and some report that this lack of reintegration caused them to consider suicide.¹²⁵ One woman who was captured by ISIL in Dohuk in 2016 and is a survivor of sexual slavery explained during a community hearing organized by MADRE and OWFI that her husband beat her when she returned to her family and sent her away because she had been touched by ISIL. She contemplated committing suicide but worried about the fate of her children. She suffers from mental and physical illnesses as a result of sexual slavery she endured, compounded by the rejection from her own family.¹²⁶
42. The Government states that “[s]teps have been taken to ensure that women and girls freed from the clutches of ISIL, as well as children abducted by that terror group, receive the support they need to ensure their physical and psychological recovery and reintegration.”¹²⁷ However, recovery and reintegration are not possible under the current reliance on counter-terrorism courts that do not meaningfully acknowledge the full scope of crimes committed. For example, despite government efforts to provide services for internally displaced persons affected by ISIL,¹²⁸ victims of SGBV and women perceived to be associated with

¹²⁰ Carsten Stahn, *Fair and Effective Investigation and Prosecution of International Crimes*, International Nuremberg Principles Academy, at 24 (2018)

¹²¹ 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>.

¹²² 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>.

¹²³ 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>.

¹²⁴ *Ibid.*, at 6

¹²⁵ *Ibid.*

¹²⁶ MADRE, Report on Community Hearing November 10, 2021 in Dohuk, on file with MADRE

¹²⁷ Government of Iraq, *Sixth Periodic Report submitted by Iraq under Article 40 of the Covenant*, para. 32, UN Doc. CCPR/C/IRQ/6 (Oct. 10, 2019).

¹²⁸ *Ibid.*, paras. 187-192.

ISIL have been prevented from reintegrating into their homes and communities.¹²⁹ In its December 2020 response to the List of Issues, the Government notes that 1,529 women, in addition to 88 Shabak women who suffered violence at the hands of ISIL have been provided with social assistance.¹³⁰ Those are exactly the same numbers that were quoted in the August 2019 Government's sixth report to the Committee, indicating that no progress was made on that front in more than a year.¹³¹

43. Some positive developments took place in 2021 and 2022 with respect to accountability for crimes committed against the Yazidi community. In March 2021 the Iraqi Parliament passed the Yazidi Female Survivors Law, legally recognizing ISIL crimes against Iraq's Yazidi community as genocide and mandating reparations for Yazidi women survivors. Importantly, the law also acknowledges conflict-related sexual violence and its particular usage by ISIL against Yazidi women. The law establishes a legal imperative for the prosecution of ISIL members for international crimes and, in addition to the Yazidi community, also formally recognizes the gravity of the crimes committed against Turkmen, Christian and Shabak communities.¹³² However, a number of Iraqi and international CSOs have raised concerns about the wording of the Yazidi law and it potentially being interpreted as not being accessible to Muslim women survivors of ISIS.¹³³

*Please see pages 20-23 in the OWFI, MADRE, et al., Human Rights Violations Against Women and Girls in Iraq List of Issues submission for additional information on the Government of Iraq's failure to prosecute sexual and gender-based violence committed by ISIL and to protect victims.*¹³⁴

A. Recommendations to the Government of Iraq

¹²⁹ 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>; Amnesty International, *The Condemned: Women and children isolated, trapped and exploited in Iraq*, at 5-6 (Apr. 2018), <https://www.amnesty.org/download/Documents/MDE1481962018ENGLISH.PDF>.

¹³⁰ Government of Iraq, *Replies of Iraq to the list of issues in relation to its sixth periodic report*, para. 18, UN Doc. CCPR/C/IRQ/RQ (08 April 2021).

¹³¹ Government of Iraq, *Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018*, par. 32, UN Doc. CEDAW/C/IRQ/7 (Aug. 15, 2018).

¹³² United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD), *Sixth report of the Special Adviser and Head of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant*, para.134, UN Doc. S/2021/419 (May 3, 2021) It should also be noted that, in November 2021, the Higher Regional Court in Frankfurt, Germany, convicted a former ISIL member of genocide committed against the Yazidi community and several other similar extraterritorial cases are currently being litigated in Germany and elsewhere. Amnesty International, *Germany/Iraq: World's first judgment on crimes of genocide against the Yazidis* (Nov 30, 2021) <https://www.amnesty.org/en/latest/news/2021/11/germany-iraq-worlds-first-judgment-on-crime-of-genocide-against-the-yazidis/>.

¹³³ Kristin Smith, Sonali Dhawan, "Yazidi Female Survivors Law" in Iraq is groundbreaking but not enough, OpenGlobalRights (Oct 13, 2020) <https://www.openglobalrights.org/yazidi-female-survivors-law-in-iraq-is-groundbreaking-but-not-enough/>.

¹³⁴ MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq*, at 20-23 (May 2020), <https://www.madre.org/sites/default/files/PDFs/Human%20Rights%20Violations%20Against%20Women%20and%20Girls%20in%20Iraq.pdf>.

44. We ask the Committee to consider the following recommendations to the Government of Iraq:
45. In line with this Committee's 2015 recommendation, the Government should ensure that "[v]ictims, particularly women and girls released from ISIL, receive adequate support"¹³⁵ and that "[a]ll serious human rights violations are independently, promptly and thoroughly investigated, that perpetrators are brought to justice and adequately sanctioned as soon as feasible, and that victims receive full reparation."¹³⁶
46. The Government should ensure that the Yazidi Female Survivors Law is promptly and effectively implemented and that all women victims of ISIL be given access to justice and reparation, regardless of their ethnic or religious affiliation.
47. The Government should guarantee adequate and effective support to women who gave birth to children during their captivity, as well as to their children.

VIII. Discrimination against Afro-descendant Iraqis and persons with disabilities

Para. 30: Please comment on reports that, despite the reserved quotas to protect the political rights of certain religious and ethnic minorities, those groups continue to face challenges in achieving adequate political representation. Please report on measures taken to boost women's political participation, including measures to raise awareness of the role of women in decision-making processes and in political and public life.¹³⁷

48. Afro-descendant Iraqi women remain underrepresented in Iraq's political and public life.¹³⁸ The Iraqi government has yet to implement legislation to prevent racial discrimination or protect minorities from marginalization,¹³⁹ and Afro-Iraqis do not have their own quota in Iraq's Parliament, unlike other ethnic and religious groups.¹⁴⁰ An Iraqi of African descent has never been elected to the Council of Representatives.¹⁴¹ Beyond political representation, Afro-Iraqis continue to experience structural racism, marginalization, and

¹³⁵ UN Human Rights Committee, *Concluding Observations on the Fifth Periodic Report of Iraq*, para. 20(d), UN Doc. CCPR/C/IRQ/CO/5 (Dec. 3, 2015).

¹³⁶ *Ibid*, para. 20(a).

¹³⁷ UN Human Rights Committee, *List of Issues in Relation to the Sixth Periodic Report of Iraq*, para. 30, UN Doc. CCPR/C/IRQ/Q/6 (August 17, 2019).

¹³⁸ Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para 25, UN Doc. CEDAW/C/IRQ/CO/7 (Nov. 12, 2019).

¹³⁹ The draft law to "Protect Diversity and Combat Discrimination" was submitted for its first reading in October 2016, but was put on hold during the government transition. Minority Rights Group, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq*, para. 16 (2018).

¹⁴⁰ Minority Rights Group, *Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq*, para. 12 (2018) (noting that only 8 seats in parliament are reserved for minorities allocated only to Christians, Sabeen-Mandaeans, Shabak and Yezidis).

¹⁴¹ *Ibid*, para. 13.

stigmatization.¹⁴² Afro-Iraqi women in particular suffer as a result of persistent discriminatory stereotypes,¹⁴³ and report experiencing double discrimination due to their race and gender.¹⁴⁴

49. Iraqi women with disabilities also remain underrepresented in Iraq's political and public life.¹⁴⁵ Discrimination against persons with disabilities in Iraq remains widespread,¹⁴⁶ and women with disabilities face compounding discrimination on the basis of gender and disability.¹⁴⁷ Legal restrictions in Iraq, including in the Constitution and Civil Code, limit the right of persons with disabilities to vote and be elected, and Law No. 38 (2013) on persons with disabilities is silent on their right to participate in political and public life.¹⁴⁸

50. Neither in its State Party Report to the Committee nor in its response to the List of Issues does the Government of Iraq address the situation of Afro-descendent Iraqi women or Iraqi women with disabilities, which is concerning, given the breadth of exclusion and systematic discrimination against both groups described in the above paragraphs. In 2021 the International Labour Conference Committee of Experts called upon the government of Iraq to provide an update as there had been no progress on anti-discrimination legislation.¹⁴⁹

*Please see pages 29-33 in the OWFI, MADRE, et al., Human Rights Violations Against Women and Girls in Iraq List of Issues submission for additional information on discrimination against Afro-Iraqis and Iraqis with Disabilities.*¹⁵⁰

A. Recommendations to the Government of Iraq

51. We ask the Committee to consider the following recommendations to the Government of Iraq:

¹⁴² Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq*, para. 27, UN Doc. CERD/C/IRQ/CO/22-25 (Jan. 11, 2019).

¹⁴³ Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para 19(d), UN Doc. CEDAW/C/IRG/CO/7 (Nov. 12, 2019).

¹⁴⁴ Saad Salloum, *African-Iraqis Also Need the Black Lives Matter Movement*, AL-FANAR MEDIA (Jun. 30, 2020), <https://www.al-fanarmedia.org/2020/06/african-iraqis-also-need-the-black-lives-matter-movement/>.

¹⁴⁵ Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para 25, UN Doc. CEDAW/C/IRG/CO/7 (Nov. 12, 2019).

¹⁴⁶ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Iraq*, para. 11(a), UN Doc. CRPD/C/IRQ/CO/1 (Oct. 23, 2019).

¹⁴⁷ UNAMI & OHCHR, *Report on the Rights of Persons with Disabilities in Iraq*, at 8-9 (Dec. 2016), https://reliefweb.int/sites/reliefweb.int/files/resources/UNAMI_OHCHR_Report_on_the_Rights_of_PWD_FINAL_2Jan2017.pdf; Iraqi Alliance of Disability, *The Parallel Report for the Government's Report on the Convention on the Rights of Persons with Disability (CRPD)*, at 8 (Jan. 2018), https://www.ecoi.net/en/file/local/1449271/1930_1541602017_int-crpdc-ico-irq-31954-e.doc.

¹⁴⁸ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Iraq*, para. 53(a), UN Doc. CRPD/C/IRQ/CO/1 (Oct. 23, 2019).

¹⁴⁹ International Labor Conference, Committee on the Application of Standards, Tenth sitting – Discussion of individual cases - Iraq, 109th session Geneva 2021 at 10-11 (12 June 2021) https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_802496.pdf

¹⁵⁰ MADRE, et al., *Human Rights Violations Against Women and Girls in Iraq*, at 29-33 (May 2020), <https://www.madre.org/sites/default/files/PDFs/Human%20Rights%20Violations%20Against%20Women%20and%20Girls%20in%20Iraq.pdf>

52. In line with the CEDAW Committee's 2019 recommendation, the Government should "[c]reate an enabling environment for the participation of women in political and public life, in particular with regard to women belonging to minority groups, including by raising awareness among political leaders and the general public of the fact that the full, free and democratic participation of women on an equal basis with men in political and public life is a requirement for the full implementation of the human rights of women."¹⁵¹
53. In line with the Committee on the Elimination of Racial Discrimination's 2019 recommendation, the Government should "ensure that ethnic and ethno-religious minorities, including minority women, are adequately represented in all elective bodies as well as in public office, by taking all necessary measures, including amending its electoral laws and ensuring the representation of minorities that do not benefit from the quota system."¹⁵²
54. In line with the Committee on the Rights of Persons with Disabilities' 2019 recommendation, the Government should "[r]epeal discriminatory provisions that prevent persons with intellectual or psychosocial disabilities from exercising their rights to vote and to stand for election, and amend Law No. 38 (2013) by including in it the right of persons with disabilities to participate in political and public life."¹⁵³
55. The Government should 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, which aim to eliminate discrimination based on race, color, sex language, religion, political or other opinion, nation or social origin.¹⁵⁴

¹⁵¹ Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the Seventh Periodic Report of Iraq*, para 26(c), UN Doc. CEDAW/C/IRG/CO/7 (Nov. 12, 2019).

¹⁵² Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq*, para. 26, UN Doc. CERD/C/IRQ/CO/22-25 (Jan. 11, 2019).

¹⁵³ Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Iraq*, para. 54(a), UN Doc. CRPD/C/IRQ/CO/1 (Oct. 23, 2019).

¹⁵⁴ UNAMI, *Report on Human Rights in Iraq: January to June 2017*, at 6 (Dec. 14, 2017), <https://www.refworld.org/docid/5a746d804.html>.