

## **I. BACKGROUND AND FRAMEWORK**

### **A. Introduction**

1. The rise of ISIS, which rapidly expanded across seven of Iraq's 19 governates in 2014, severely impeded the Iraqi government's ability to address the recommendations of the last UPR for Iraq. Although the then Prime Minister Haider al-Abadi announced the defeat of the armed group in December 2017, Iraq continues to face huge challenges in facilitating the return to normal life and a volatile security environment remains. According to estimates from the World Bank and Iraq's Ministry of Planning, overall damages incurred in the affected governates total IQD 53.3 trillion (US \$45.7 billion) and by 2017 had contributed to losses of IQD 124 trillion (US \$107 billion) to non-oil GDP.<sup>1</sup>
2. Both the direct and wider effects of the conflict have had a particularly negative effect on vulnerable groups, including minorities, women, and internally displaced persons (IDPs). Iraq has historically been home to diverse ethnic, linguistic and religious minorities, including Turkmen, Shabak, Yezidis, Sabaeen-Mandaeans, Baha'i, Chaldo-Assyrian and Armenian Christians, Kaka'i, Zoroastrians, Faili Kurds, Roma, and Black Iraqis. However, since 2003, the escalation in violent attacks against minorities compelled many to leave the country *en masse*, a process accelerated by the conflict with ISIS. The armed group actively targeted minority groups, committing a plethora of abuses including massacres, forced conversions, restrictions on religious freedom, kidnappings, sexual slavery and the destruction of cultural and religious heritage.
3. Among the nearly 6 million people displaced by the conflict, minorities have been disproportionately represented and many continue to face obstacles preventing their return to their areas of origin.<sup>2</sup> Among the ongoing threats faced by minority communities, the proliferation of armed groups across Iraq is particularly acute, while a fragile state and weak rule of law have generated an atmosphere of impunity which has encouraged violence, harassment and discrimination. For these reasons, Minority Rights Group (MRG) continues to consider Iraq one of the most dangerous places in the world for minorities.<sup>3</sup>

### **B. Scope of international obligation**

4. Iraq is a party to most international human rights instruments, including ICERD, ICESCR, ICCPR, CEDAW, CRC, the Convention against Torture, and the Convention against Enforced Disappearance. Iraq has not ratified the optional protocols to the ICCPR and ICESCR and ILO Convention No. 169 on Indigenous and Tribal Peoples. Iraq voted in favour of adopting the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as well as the United Nations Declaration on the Right to Development (UNDRTD).

### **C. Constitutional framework**

5. Iraq's legal framework is relatively progressive, yet there remain contradictory provisions and gaps in implementation. Article 2(2) of the constitution guarantees

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<sup>1</sup> World Bank Group, *Iraq: Reconstruction & Investment – Part 2: Damage and Needs Assessment*, Washington, DC: World Bank Publications (2018) – <https://bit.ly/2lhOOIr>

<sup>2</sup> MRG, *Crossroads: The future of Iraq's minorities after ISIS*, London: Minority Rights Group International (2017) p.15

<sup>3</sup> MRG 'People's under Threat 2018 Briefing,' 13 June 2018 – <https://bit.ly/2XXYm5h>

freedom of religious belief and practice and also provides that ‘No law may be enacted that contradicts the rights and basic freedoms’ in the constitution. However, Article 2 also states that ‘Islam is the official religion of the State and is a foundation source of legislation’ and that ‘[n]o law may be enacted that contradicts the established provisions of Islam.’ Although Article 125 guarantees ‘the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents,’ Iraq has so far failed to enact a law implementing this provision.

## II. HUMAN RIGHTS VIOLATIONS

### D. Right to Equality and Non-Discrimination

*Articles 2 and 7 UDHR; Articles 2 and 26 ICCPR; Article 2(2) ICESCR, Articles 2 and 5 ICERD; Article 2 CRC; Articles 5 and 6 UNDRTD; Articles 2, 9, 15(2) and 17(3) UNDRIP; Article 3 and 4(1) UNDM*

6. At the second UPR of Iraq in 2014, Iraq committed itself to ensuring the rights of religious and ethnic minorities, monitoring public statements of hatred against ethnic and religious groups and taking measures to combat them and hold perpetrators responsible (recommendations 98, 162, 163, 164, 201).
7. Minorities continue to accuse the federal Government of Iraq of sectarian bias in the recruitment of public sector employees. There is practically no minority presence in high-level posts within public bodies, especially in the security and police forces.<sup>4</sup> Minorities are also underrepresented in public employment at the governorate and municipality level.<sup>5</sup>
8. Other groups face discrimination on account of their ethnic origin or cultural practices. Black Iraqis, whom community representatives estimate number up to 2 million, are consistently referred to as ‘*abd* (slave) and continue to face systematic discrimination and high unemployment.<sup>6</sup> The Roma are also disproportionately unemployed. They are ostracized from society at large and some shopkeepers will not even sell goods to Roma customers. Many Roma are forced into begging or prostitution to make a living. The government has made no efforts to alleviate these problems, or even to rebuild basic infrastructure damaged by militants in Roma areas.<sup>7</sup> Other groups such as Zoroastrians and Kaka’is are discriminated against due to lack of knowledge of the faiths and misconceptions of their religious practices. Kaka’is for instance are often marginalised by society and many members of the community hold that people will not purchase foods or items from a Kaka’i seller. The government is yet to incorporate religious education on minority faiths into its curricula to challenge this issue and has demonstrated reluctance to do so.

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<sup>4</sup> USCIRF, ‘Iraq Chapter’ in *United States Commission on Religious Freedom – 2018 Annual Report* (2018) – <https://bit.ly/2R9PXvM>, p.174

<sup>5</sup> Bureau of Democracy, Human Rights and Labor, *Iraq 2017 International Religious Freedom Report*, Washington, DC: United States Department of State (2017) – <https://bit.ly/2IjzygG>, p.16

<sup>6</sup> OHCHR, ‘Committee on the Elimination of Racial Discrimination reviews the situation in Iraq’, 30 November 2018 – <https://bit.ly/2HuiB14>

<sup>7</sup> MRG, ‘Iraq: Roma’, *World Directory of Minorities and Indigenous People* (2017) – <https://minorityrights.org/minorities/roma-21/>

9. Hate speech directed toward minorities is widespread in Iraqi public life, from statements by politicians and religious leaders to reports in the mass media and posts on social networking sites. There is currently no law in Iraq that criminalises hate speech and incidents of it go largely unchecked, even when promulgated by political actors. An Anti-Discrimination Law, which also includes a provision on hate speech, had its first reading in the Iraqi parliament in 2016 but, due to a change in government since then, it must begin the enactment process anew.<sup>8</sup> While the government has attempted to close some media outlets accused of promulgating hate speech, many sectarian channels continue broadcasting.<sup>9</sup> Furthermore, Iraq's totally unregulated internet leaves the government ill-prepared to tackle hate speech online.<sup>10</sup>

## **E. Right to Identity and Freedom of Religion**

*Articles 18 and 19 UDHR; Articles 18, 19 and 27 ICCPR; Articles 2, 5(d)(iii) and 5(d)(vii) ICERD; Articles 14 and 30 CRC; Articles 5 and 6 UNDRTD; Articles 2, 5, 6, 9, 12(1), 15(2) and 33(1) UNDRIP; Articles 1, 2(1), 4(1), 4(2) UNDM*

10. At the second UPR of Iraq in 2014, the Iraqi government agreed to prevent and eliminate discrimination on the grounds of religion and belief (recommendation 201).
11. Several of Iraq's laws contradict constitutional provisions relating to non-discrimination and freedom of religion. Prohibitions on the Baha'i faith remain in place, with government officials recently indicating their intention to maintain this position.<sup>11</sup>
12. In 2015, Iraq adopted the National Identity Card Law which compels citizens to identify as either Muslim, Christian, Sabaeen-Mandaeen or Yezidi in order to receive a card, required to register marriages, enrol children in public schools, acquire passports, and obtain some government services.<sup>12</sup> Adherents of other religions must identify as one of the four listed faiths in order to obtain a card. Article 26 of the law affirms the right of non-Muslims to convert to Islam but does not afford the same conversion rights to Muslims.
13. Article 45 of the Juvenile Welfare Law of 1983 holds that 'the minor of an unknown affinity shall be considered as Iraqi Muslim unless it is proved to the contrary'.<sup>13</sup> This is of particular concern where children conceived through rape by ISIS militants, but born to a non-Muslim mother, must be registered as Muslim. Minority leaders also report that parents incorrectly registered as Muslims are forced to register their child as Muslim or have the child remain stateless, with implications for the receipt of government benefits.<sup>14</sup>
14. Despite the constitutional provision guaranteeing the right of minorities to their personal status, no separate personal codes have been recognised. The Personal Status Code of 1959 can therefore apply Islamic Sharia principles to non-Muslim minorities, violating

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<sup>8</sup> OHCHR, 'Committee on the Elimination of Racial Discrimination reviews the situation in Iraq'

<sup>9</sup> Wollenberg, A., El-Richani, S. & Jekta, M., 'In Defence of the Iraqi Media – Between Fuelling Conflict and Healthy Pluralism', *Global Media Journal – German Edition*, Vol.7, No.1 (2017) p.5

<sup>10</sup> Jawad, H., 'Cybercrime Legislation in Iraq', *Al Tamimi & Co.*, September 2017 – <https://bit.ly/2THdhm1>

<sup>11</sup> Bureau of Democracy, Human Rights and Labor, *Iraq 2017*, p.6; Salloum, S., 'Iraqi official denies Bahaimism as religion', *Al-Monitor*, 11 December 2018 – <https://bit.ly/2VUBxxi>

<sup>12</sup> Bureau of Democracy, Human Rights and Labor, *Iraq 2017*, p.8

<sup>13</sup> Juvenile Welfare Law 1983 – <https://bit.ly/2TLb3kC>

<sup>14</sup> Bureau of Democracy, Human Rights and Labor, *Iraq 2017* p.10

their cultural and religious norms with regard to marriage, divorce and inheritance. Furthermore, the Civil Status Law of 1972 holds that the religion of a child shall follow the religion of the Muslim parent and applies not only to new-borns, but also to children born before a parent converts to Islam. In practice, these laws have significant ripple effects on family matters of custody and inheritance, which legally favour the Muslim individual.<sup>15</sup> The policies on a person changing their religion on their identification documents from Muslim to another are extremely restrictive. If a child is mistakenly registered as Muslim, the child/family cannot change this registration until the child turns 18, after which the individual is permitted only one year to register the change.<sup>16</sup>

15. The Kurdistan Regional Government (KRG) refuses to recognise Shabak as a distinct ethnic group, considering them to be of Kurdish ethnicity. While some Shabak do identify as Kurds, many do not. They are culturally distinct from Kurds and Arabs with their own traditions and language.<sup>17</sup>

## **F. Right to participate in Public Life**

*Article 21 UDHR; Article 25 ICCPR; Articles 2(2), 5(c), and 7 ICERD; Articles 5 and 6 UNDRTD; Articles 5, 18 and 27 UNDRIP; Articles 2(2), 2(3), 5(1) UNDM*

16. At the second UPR of Iraq in 2014, Iraq committed itself to making efforts to guarantee the enjoyment by minorities of human rights and fundamental freedoms in the field of political life and elections (recommendations 106, 199, 203, 204, 205).
17. There are insufficient parliamentary reserved seats to enable minorities to effectively represent their interests. Electoral law reserves 8 seats in the 328-member Council of Representatives (CoR) for minorities: five for Christians and one each for the Sabaeen-Mandaeans, Yezidis and Shabak. This contravenes a June 2010 Iraqi Federal Court ruling requiring the ratio in the CoR be one representative per 100,000 Iraqis.<sup>18</sup> The current Yezidi population in Iraq is estimated at around 500,000.<sup>19</sup> Moreover, seats are allocated to specific governorates and only voters resident in the governorate in question can vote for them, yet some communities are dispersed in many different areas.<sup>20</sup> Baha'i, Kaka'i, Turkmen and Black Iraqis do not have a reserved seat in the CoR.
18. The KRG does not reserve seats for Yezidi, Shabak, Black Iraqis or religious minorities other than Christians. The 2015 KRG Law on the Protection of the Rights of Components recognises various ethnic and religious minorities but contains no protections for Kaka'is and fails to criminalise hate speech. Furthermore, Sabaeen-Mandaeans now residing in the Kurdistan Region of Iraq (KRI) are unable to obtain official documentation from the KRG to prove they are living there yet are simultaneously unable to transfer residence from Baghdad. Without being able to

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<sup>15</sup> Interview with Yezidi Lawyer and Manager of IDP Camp, Dohuk, February 2019

<sup>16</sup> Ibid.

<sup>17</sup> MRG, 'Iraq: Shabak', *World Directory of Minorities and Indigenous People* (2017) – <https://minorityrights.org/minorities/shabak/>

<sup>18</sup> UN Security Council (29 July 2010), S/2010/406, "Report of the Secretary-General pursuant to paragraph 6 of resolution 1883 (2009)", par 45

<sup>19</sup> MRG, 'Iraq: Yezidis', *World Directory of Minorities and Indigenous People* (2017) – <https://minorityrights.org/minorities/yezidis/>

<sup>20</sup> Baghdad - 1 seat for Christians, 1 seat for Sabean-Mandaeans; Dohuk - 1 seat for Christians; Erbil - 1 seat for Christians; Kirkuk - 1 seat for Christians; Ninewah 1 seat for Christians, 1 seat for the Yezidi and 1 seat for the Shabak. Inter-Parliamentary Union PARLINE Database, Council of Representatives of Iraq, available at [http://www.ipu.org/parline-e/reports/2151\\_B.htm](http://www.ipu.org/parline-e/reports/2151_B.htm).

solidify their presence through documentation providing proof of residence, Sabaean-Mandaeans cannot access rights stipulated in the 2015 Law, such as the right to run for parliament.<sup>21</sup> Increasing reports also suggest that minority political representatives are targeted if they are critical of the main Kurdish political parties. For example, in July 2017, the Assyrian mayors of al-Qosh and Tel Kayf were allegedly replaced by mayors loyal to the Kurdish Democratic Party (KDP).<sup>22</sup>

19. Sabaean-Mandaeans and Christians have complained that a 2016 ban on the sale of alcohol discriminates against minorities by limiting their available economic opportunities.<sup>23</sup> The Roma, who were traditionally employed as musicians, dancers and entertainers under the Ba’ath dictatorship, have frequently been targeted by Islamist militants who disapprove of such professions.<sup>24</sup>
20. At the second Iraq UPR in 2014, Iraq committed itself to improving the participation of women, including in conformity with Security Council Resolution 1325 (rec 96). The system of seats for women in the Iraqi parliament has boosted women’s representation in public life, but serious concerns remain at all levels about both formal and societal barriers to women’s effective public participation. Women in public life have often been exposed to threats and intimidation, and a number of killings have occurred (see paras 23 and 29 below).

#### **G. Right to Life, Security and Adequate Protection**

*Article 3 UDHR; Articles 6 and 9 ICCPR; Articles 2(2), 5(b), 6 ICERD; Articles 5 and 6 UNDRTD; Articles 7 and 15(2) UNDRIP*

21. At the second UPR of Iraq in 2014, the Iraqi government agreed to a wide range of measures to improve security and protection of the civilian population (including recommendations 100, 101, 103, 106); to guarantee the security of religious and ethnic minorities (recommendations 61, 65, 71, 101, 164, 196, 198, 201, 202, 203); and to protect against violence against women (including recommendations 128, 129, 132, 134).
22. Since the official formation of the Popular Mobilisation Forces (PMF) in 2014, largely Shi’a militia groups have proliferated across Iraq, comprising between 45,000 and 142,000 fighters.<sup>25</sup> PMF militias have been instrumental in the fight against ISIS, supplementing and frequently supplanting Iraq’s armed forces. However, the Iraqi government has failed to maintain effective control over the PMF, who operate in a climate of impunity. PMF forces have been implicated in a range of abuses including extrajudicial killings, abductions, the destruction of local religious sites and the intimidation and harassment of minorities.<sup>26</sup> PMF militias carried out repeated reprisals against Iraqi Sunnis for perceived affiliation with ISIS. Most notoriously, in the 2016 campaign to recapture Fallujah, up to 900 Sunni IDPs fleeing the city were subjected to enforced disappearance, of whom over 600 are still missing according to reports.<sup>27</sup> PMF

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<sup>21</sup> Religious Minority Representative in KRG, Erbil, January 2019

<sup>22</sup> Bureau of Democracy, Human Rights and Labor, *Iraq 2017* p.13

<sup>23</sup> *Ibid.* p.16

<sup>24</sup> MRG, ‘Iraq: Roma’

<sup>25</sup> International Crisis Group, ‘Iraq’s Paramilitary Groups: The Challenge of Rebuilding a Functioning State’, Middle East Report No.188, 30 July 2018 – <https://bit.ly/2nTpoKd>

<sup>26</sup> MRG, *Crossroads: The Future of Iraq’s Minorities After ISIS* p.14

<sup>27</sup> Amnesty International, ‘643 Iraqi Men Disappeared Two Years Ago: Where Are They?’, 11 June 2017 - <https://www.amnesty.org/en/latest/campaigns/2017/06/643-iraqi-men-missing-for-a-whole-year/>

groups have also been accused of attempting to engender demographic change in Iraq by obstructing Arab Sunni and minority IDPs from returning to their areas of origin and by looting or illegally requisitioning minority property.<sup>28</sup>

23. The outbreak of large-scale popular protests in Basra and other Iraqi cities from July 2018 has led to a wave of violent repression of civilian activists.<sup>29</sup> In addition to the use of excessive force against protestors on the streets, there has been a campaign of systematic death threats and premeditated assassinations. A wide range of civilian activists including protestors, media professionals, lawyers, women in public life and other human rights defenders have been subjected to arbitrary detention and summary killings by militias, including those affiliated to the Popular Mobilization Forces, and by the Iraqi Security Forces and police. Women in the public sphere, participating in protests, or in the 2018 elections have been subjected to sexual shaming campaigns, threats and even killings.
24. The last UPR in 2014 noted the Iraqi government's failure to take the necessary action to protect minorities. Since then, the security situation for minorities worsened considerably, with the rise of ISIS and the military campaign to defeat the group causing devastating harm to many of Iraq's minority communities, including Yezidi, Christian, Turkmen and Shabak. ISIS perpetrated mass killings, arbitrary punishments, sexual violence and forced conversions against minority groups. In August 2014, ISIS killed approximately 3,100 Yezidis and kidnapped a further 6,800 to become sex slaves or fighters.<sup>30</sup> As of February 2019, over 3000 of those kidnapped remain unaccounted for.<sup>31</sup> ISIS carried out indiscriminate attacks on civilian populations using improvised explosive devices and have also reportedly used or attempted to use chemical weapons such as chlorine gas.<sup>32</sup> In September 2017, the UN Security Council recognised that crimes committed by ISIS 'may amount to war crimes, crimes against humanity, and genocide'.<sup>33</sup>
25. The Iraqi Security Forces (ISF) have been accused of either assisting or abetting PMF militias in human rights violations including the arbitrary arrest, enforced disappearance, torture and murder of civilians.<sup>34</sup> The ISF have also participated in the looting and illegal demolition of property in retaken areas. ISF and PMF troops reportedly looted Christian property and public service infrastructure in Tel Kayf, Qaraqosh and Bartalla. Yezidi properties in Bashiqa were also looted. In May 2016, Syriac Orthodox Archbishop Dawood Matti Sharf accused the ISF and PMF of destroying the second century CE tomb of religious notable Youhana al-Delimi in Qaraqosh.<sup>35</sup>

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<sup>28</sup> MRG, *Crossroads* pp.22-23; Bureau of Democracy, Human Rights and Labor, *Iraq 2017* p.1

<sup>29</sup> Ceasefire Centre for Civilian Rights /MRG, 'Civilian Activists under Threat in Iraq', December 2018, - <https://www.ceasefire.org/iraqi-activists-live-in-fear-as-death-squad-killings-rise-new-report/>

<sup>30</sup> MRG, *Crossroads: The Future of Iraq's Minorities After ISIS* pp.11-12

<sup>31</sup> Hall, R., 'Yezidi leaders call for help finding thousands of missing women and children kidnapped by Isis', *The Independent*, 28 February 2019 – <https://ind.pn/2TiLaV3>

<sup>32</sup> MRG, *Crossroads: The Future of Iraq's Minorities After ISIS* p.13

<sup>33</sup> United Nations Security Council, 8052<sup>nd</sup> meeting, *Resolution 2379 (2017)*, S/RES/2379, 21 September 2017 – [https://undocs.org/S/RES/2379\(2017\)](https://undocs.org/S/RES/2379(2017))

<sup>34</sup> Ceasefire Centre for Civilian Rights /MRG, 'Civilian Activists under Threat in Iraq', December 2018, - <https://www.ceasefire.org/iraqi-activists-live-in-fear-as-death-squad-killings-rise-new-report/>; Human Rights Watch, 'Iraq: New Abuse, Execution Reports of Men Fleeing Mosul', 30 June 2017 – <https://bit.ly/2t3DA48>; Amnesty International, *Iraq 2017/2018* (2018) – <https://bit.ly/1LJvP5G>; MRG, *No Way Home* pp.18-19

<sup>35</sup> Bureau of Democracy, Human Rights and Labor, *Iraq 2017* p.13

26. Kurdish security forces have also been implicated in a range of abuses against minorities. *Peshmerga* troops have been widely accused of participating in the looting of IDP property and failing to effectively arrest and prosecute offenders.<sup>36</sup> Furthermore, the UN has verified that *Peshmerga* units have forcefully displaced substantial numbers of IDPs from certain areas under Kurdish control and prevented IDPs from returning home in others.<sup>37</sup> For example, in May 2017, forces from the Kurdish *Asayish* reportedly confiscated ID cards from Sunni Turkmen in Kirkuk and forced them to leave the city.<sup>38</sup>
27. The ongoing border disputes between the Iraqi government and the KRG are a persistent security concern for local communities. Following the abortive Kurdish independence referendum in September 2017, ISF forces recaptured large swathes of territory that had been under *de facto* KRG control, including the city of Kirkuk. This displaced many Kurdish and minority communities to the KRG, some of whom had been displaced multiple times since 2014.<sup>39</sup> Looting and restrictions on freedom of movement by Kurdish forces are also indicative of a larger campaign of demographic change, and an operation to assume control of larger territories. Similarly, the GoI has been largely accused of supporting and abetting the building and reallocation of infrastructure in retaken Christian areas to Shabak communities, fueling territorial disputes between Shabak and Christians, and contributing to demographic change.
28. Iraq has faced the recurring problem of enforced disappearances at many times in its recent history, and all Iraq's communities have been affected. In 2010 Iraq acceded to the International Convention on Enforced Disappearance but has yet to enact any implementing legislation.<sup>40</sup> There is now a draft bill in existence which seeks to criminalize enforced disappearance and implement other provisions of the International Convention, but it is yet to be re-introduced to the new parliament.
29. Gender-based violence remains an urgent problem throughout Iraq, including both violence directly related to the conflict as well as family-based violence, including so-called 'honour' crimes, forced marriage, child marriage and female genital mutilation. Although the enslavement by ISIS of women from the Yezidi and other minority communities remains egregious, killings of women by tribal or militia forces to enforce moral codes have occurred across Iraq.<sup>41</sup>

## H. Right to an Effective Remedy

### Article 8 UDHR; Article 2 ICCPR; Article 6 ICERD; Articles 5 and 6 UNDRTD; Articles 27, 28 and 40 UNDRIP

30. At the last UPR of Iraq in 2014, Iraq committed itself to promptly and thoroughly investigate and prosecute crimes against minorities and to develop the institutional

<sup>36</sup> MRG, *Crossroads: The Future of Iraq's Minorities After ISIS* p.20-23

<sup>37</sup> OHCHR, 'Statement of the Special Rapporteur on minority issues on conclusion of her official visit to Iraq, 27 February to 7 March 2016' – <https://bit.ly/2HMSPbR>

<sup>38</sup> Human Rights Watch, 'Iraq: Kirkuk Security Forces Expel Displaced Turkmen', 7 May 2017 – <https://bit.ly/2pSolMj>

<sup>39</sup> USCIRF, 'Iraq Chapter' p.178

<sup>40</sup> Iraq's first state report under the Convention and the concluding observations of the UN Committee on Enforced Disappearances can be found here:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=973&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=973&Lang=en)

<sup>41</sup> Ceasefire Centre for Civilian Rights /MRG, *No Place to Turn: Violence against women in the Iraq conflict*, February 2015 - <https://www.ceasefire.org/no-place-to-turn-violence-against-women-in-the-iraq-conflict/>

means to facilitate this aim (recommendations 47, 146, 149, 164, 202).

31. The climate of impunity in Iraq has worsened since the last UPR. A fragile state, weak rule of law and the unchecked proliferation of militia groups have encouraged both systematic and opportunistic crimes against Iraq's ethnic and religious minorities. Along with the violations reported in Section I, criminal gangs have seized the opportunity to target minority groups, extorting business owners and kidnapping individuals for ransom.<sup>42</sup> Minority representatives continue to report uneven application of the law and profess a lack of faith in police to effectively investigate and prosecute crimes against minority communities.<sup>43</sup>
32. The investigation of ISIS crimes and prosecution of perpetrators is a priority for all Iraqis, but progress thus far has been slow and marred by a lack of transparency. In September 2017, the UN Security Council adopted Resolution 2379 to establish an investigative team 'to support domestic efforts to hold ISIL (Da'esh) accountable by collecting, preserving, and storing evidence in Iraq of acts that may account to war crimes, crimes against humanity and genocide' committed by the group.<sup>44</sup> While attempts have been made to preserve over 200 mass grave sites discovered in Iraq, investigation has not progressed with sufficient urgency, risking the decay and destruction of vital evidence.<sup>45</sup> Although Resolution 2379 has identified the Iraqi courts as the primary site for prosecuting ISIS fighters, recent reports suggest that Iraqi judges have rushed to convict ISIS fighters, often in very short group trials, under the problematic Anti-Terrorism Law (2005), often resulting in the death sentence.<sup>46</sup> Furthermore, efforts to hold PMF and government forces to account for human rights violations have been mired in secrecy, with concerns raised about the independence of investigations.<sup>47</sup>
33. In the field of civil redress, progress has been made. Iraq has an existing reparations scheme, which has paid out over USD 355 million in recent years to the victims of 'military operations, military mistakes and terrorist actions' under Law no. 20.<sup>48</sup> Official figures obtained from the Central Committee in Baghdad overseeing the scheme show that considerable progress was made in compensating victims of military operations, military mistakes and terrorist actions since Law 20 was passed. During the period 2011–16, decisions were reached on a total of 65,046 cases involving property damage and 118,894 claims involving martyrs, injuries and lost persons. The total amount awarded to victims over this five-year period was more than IQD420 billion (over US\$355 million).<sup>49</sup> However, there is a considerable lag in the processing of claims, and the more recent and complex phase of the conflict since 2014 raises new challenges, requiring that the existing reparations system be strengthened. In particular, with the volume of claims from the ISIS conflict, there is a danger that the scheme will be

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<sup>42</sup> Home Office, *Country Information and Guidance – Iraq: Religious Minorities*, London: Home Office (2016) pp.25-26

<sup>43</sup> Bureau of Democracy, Human Rights and Labor, *Iraq 2017* p.22

<sup>44</sup> United Nations Security Council, 802<sup>nd</sup> meeting, *Resolution 2379*

<sup>45</sup> UN News, 'ISIL's 'legacy of terror' in Iraq: UN verifies over 200 mass graves', 6 November 2018 – <https://bit.ly/2Pi48xN>

<sup>46</sup> Foltyn, S., 'Justice for the Enemy', *The Intercept*, 17 June 2018 – <https://bit.ly/2YeKKTq>

<sup>47</sup> Human Rights Watch, 'Iraq: Fallujah Abuses Inquiry Mired in Secrecy', 7 July 2016 – <https://bit.ly/29tq3vR>

<sup>48</sup> Ceasefire Centre for Civilian Rights and Minority Rights Group, *Reparations for the Victims of Conflict in Iraq: Lessons learned from comparative practice*, November 2017 - <https://www.ceasefire.org/wp-content/uploads/2017/11/Reparations-in-Iraq-Ceasefire-November-2017.pdf>

<sup>49</sup> Ceasefire, *Reparations*, p18.



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## **I. Right to Healthcare and to an Adequate Standard of Living**

***Article 25 UDHR; Articles 11 and 12 ICESCR; Article 2(2) ICERD; Articles 24 and 27 CRC; Articles 5, 6 and 8 UNDRTD; Articles 21 and 24 UNDRIP; Article 4(5) UNDM***

34. At the last UPR of Iraq in 2014, the Iraqi government agreed to strengthen its efforts in the area of development, including healthcare (recommendations 53, 177, 178, 179, 180, 181, 219).
35. The conflict with ISIS caused an estimated IQD 2.7 trillion (US\$ 2.3 billion) damage to Iraq's healthcare system. According to World Bank statistics, apart from Tel Afar, al-Muqadaya and al-Ramadi, all cities in regions occupied by ISIS had at least half of their healthcare facilities partially or fully destroyed.<sup>50</sup> As was identified in the previous UPR, many minority areas suffered already from disproportionately poor healthcare facilities which have only worsened in the intervening years. The government, supported by the international community, has begun rebuilding healthcare infrastructure damaged during the conflict.<sup>51</sup> However, the International Organisation for Migration (IOM) indicates that healthcare remains a concern for IDPs and a major barrier to return.<sup>52</sup>
36. Damage to housing and infrastructure also threaten public health in areas of return, with the presence of explosive remnants of war and damage to basic services, including electricity and clean water, particularly pressing concerns. As of December 2018, around 1.8 million IDPs remain displaced, of whom 30% are residing in IDP camps; demand for humanitarian assistance is particularly severe for camps in Ninewa and Salah al-Din.<sup>53</sup> In mid-2018, the IOM reported that a significant proportion of IDPs have no intention of returning to their areas of origin and intend to integrate locally; ensuring adequate capacity to cope with a permanent IDP presence is a pressing issue in all affected governates.<sup>54</sup>
37. In response to extremely poor government services – including lack of health services, provision of electricity, water contamination and unemployment – mass protests erupted across central and southern Iraq in 2018, most predominantly in Basra, Najaf, Karbala and Baghdad. Protesters accused Ministry of Health amongst other government ministries and officials of severe corruption resulting in the dire service provision in these areas. On many occasions, the protests resulted in violent clashes, with protesters being subjected to violence, excessive force, arbitrary arrests and even killings by Iraqi government forces.

## **J. Right to Education**

***Article 26 UDHR; Article 13 ICESCR; Article 5(d)(vii) ICERD; Articles 28 and 29 CRC; Articles 5, 6 and 8 UNDRTD; Article 14, 15, 16, 21 and 24 UNDRIP; Articles 2(1), 2(2), 4(2),***

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<sup>50</sup> World Bank Group, *Iraq: Reconstruction & Investment – Part 2* p.xvi

<sup>51</sup> OCHA, *Health Cluster – Iraq: Annual Report 2018* – <https://bit.ly/2HLonit> p.2; UNDP, *Funding Facility for Stabilization – 2018 Q3 Report* (2018) – <https://bit.ly/2WAlSob> p.7

<sup>52</sup> IOM, *Return Index, Round 2 – Iraq* (2019) – <https://iraq.iom.int/return-index-round-2-iraq> p.8

<sup>53</sup> IOM, 'Displacement Tracking Matrix (DTM) – Iraq Matrix', 15 December 2018 – <http://iraqdtm.iom.int/>; OCHA, *2019 Humanitarian Needs Overview*, November 2018 – <https://bit.ly/2Fbv77E> p.19

<sup>54</sup> IOM, 'Returns Continue While Obstacles to Return Remain in Iraq: IOM', 26 June 2018 – <https://bit.ly/2PLIRZM>

#### 4(3), 4(4) UNDM

38. At Iraq's first UPR in 2010, the Iraqi government committed itself to improving the education system, improving access to education and combating illiteracy (recommendations 53, 54, 127, 179, 181, 182, 186, 187, 188, 189, 190, 218,).
39. The mass displacement caused by ISIS had severe effects on education in Iraq, with at least 3.5 million school-aged Iraqi children missing out on education since the start of the crisis.<sup>55</sup> At the end of 2018, OCHA indicated that 32% of school-aged IDP children living in camps and 26% of those living out-of-camps continue to have no access to formal education opportunities, with minority-dense Ninewa identified as particularly deprived. Three governates in the KRI – Sulaymaniyah, Erbil and Dohuk – which host large populations of minority IDPs, were also identified as areas with the 'greatest education needs'.<sup>56</sup>
40. Where adequate education provision does exist, IDPs face a number of impediments to accessing schools. Many children lack the requisite documentation to enrol in school and face barriers to obtaining them (see para.14). IDPs also struggle to adapt to new curriculums in areas to which they have been displaced. In particular, the large number of non-Kurdish speaking IDPs in the KRI have faced major obstacles when enrolling their children locally, where the language of instruction is Kurdish.<sup>57</sup>
41. Yezidi and Christian leaders have described 'continued discrimination in education and a failure to consult minorities on curricula and language of instruction'. In 2015, the Ministry of Education promulgated a new curriculum incorporating lessons on religious tolerance.<sup>58</sup> While the ministry has purportedly established a "Human Rights Unit" to promote human rights and facilitate national reconciliation, to-date the curriculum remains largely unchanged.<sup>59</sup>
42. In higher education, academics have reported having research projects on the history of religions or on religious freedoms in Iraq rejected for fear it would be perceived as insulting Islam if published.<sup>60</sup>
43. In the last UPR, black Iraqis and Roma were identified as particularly marginalised, with illiteracy rates as high as 95% among Iraqi Roma. In 2018, a school was reopened for Roma children in the village of al-Zuhoor in Diwaniya province for the first time since being forced to close by Islamist militants in 2004. However, the school remains among the only educational institutions for Iraqi Roma and local prejudices have discouraged some teachers from working with Roma children.<sup>61</sup> Illiteracy also continues to be disproportionately high among black Iraqis.<sup>62</sup>

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<sup>55</sup> UN Children's Fund, 'UNICEF Iraq Briefing Note Education, 30 September 2016 – <https://bit.ly/2T4Qz1F>

<sup>56</sup> OCHA, *2019 Humanitarian Needs Overview*, p.48

<sup>57</sup> MRG, *Crossroads: The Future of Iraq's Minorities After ISIS* p.18

<sup>58</sup> Bureau of Democracy, Human Rights and Labor, *Iraq 2017* p.15

<sup>59</sup> OHCHR, 'Committee on the Elimination of Racial Discrimination reviews the situation in Iraq'

<sup>60</sup> Interview with University Professor, University of Dohuk, Dohuk, February 2019

<sup>61</sup> The New Arab, 'Iraqi Roma school reopens 14 years after destruction', 28 March 2018 –

<https://bit.ly/2Cj1vU7>

<sup>62</sup> OHCHR, 'Committee on the Elimination of Racial Discrimination reviews the situation in Iraq'

### III. RECOMMENDATIONS

#### **MRG and Ceasefire urge the Working Group to recommend the following:**

To the Central Government of Iraq:

##### *Ethnic, religious and linguistic minorities*

1. Develop a comprehensive anti-discrimination law, including strong, effective and accessible enforcement mechanisms.
2. Actively implement equal opportunities policies to ensure that minorities have equal access to services and employment opportunities.
3. Repeal all legislation contradicting the constitutional provisions relating to freedom of religion.
4. End the discrimination against Baha'is with regard to citizenship and identity documents, as well as any legal prohibitions on practicing the Baha'i faith, and speed up the process of re-nationalisation of persons previously denaturalised on political, religious or ethnic grounds.
5. Amend the electoral laws to increase the number of reserved seats for minorities.
6. Take necessary and effective measures to improve the security of minority communities, in consultation with the communities themselves.
7. Set up an independent investigative commission to identify corrupt government officials and to make recommendations to ensure that such practices are ended.
8. Allocate resources to building or restoring essential infrastructure and services in marginalized communities, including retaken areas as well as those where Roma and Black Iraqis live.
9. Initiate prompt, impartial and in Institute special measures for minorities registering poor levels of education, such as Roma and Black Iraqis.
10. Amend educational curricula to diversify religious education and remove discriminatory or offensive references to minority religions.
11. Initiate prompt, impartial and independent investigations of attacks on minorities and prosecute those found to be responsible, respecting international standards of due legal process.

##### *Civilian rights and security*

12. Ensure that all government forces, including Iraqi Security Forces (ISF), Popular Mobilization Forces (PMF) and affiliated militias, fall under unified command and control that is accountable to the Government of Iraq (or, for the Kurdistan Region, to the Kurdistan Regional Government). Disband any other armed militias and implement an effective process of demobilization, disarmament and re-integration (DDR).
13. Conduct prompt, impartial, independent and effective investigations into all instances of alleged assassinations, extrajudicial executions or other arbitrary killings by PMF or by ISF or police, make the results of such investigations public, and ensure that the perpetrators are prosecuted.

14. Immediately cease all practices which will prevent returns and ensue demographic change, including looting, destruction of property, allocation of property and resources to particular ethnic or religious groups, in favour over others.
15. Pass a law on enforced disappearances to implement Iraq's obligations under the International Convention for the Protection of All Persons from Enforced Disappearance.
16. Ensure that prosecutions of those accused of ISIS crimes reflect the gravity of the conduct for which they are allegedly responsible and that trials are conducted under international fair trial standards.
17. Acknowledge violations committed by all parties to the conflict and ensure that all victims are eligible for reparation under Law 20 on Compensation for Victims of Military Operations, Military Mistakes and Terrorist Actions.
18. Work with civil society and regional and local authorities to mediate disputes between tribes, militia and returning populations to avoid revenge, forced or denied return and renewed displacement.
19. Provide adequate psychosocial support to victims of the conflict, particularly minority survivors of sexual slavery and children indoctrinated by ISIS.
20. Amend the Penal Code to include minimum sentences for rape and sexual assault and repeal provisions which enable perpetrators to evade or mitigate punishment through citing 'honour' motives; and withdraw reservations to the Convention on the Elimination of All Forms of Discrimination against Women.
21. Carry out thorough and impartial investigations into crimes against women, including crimes committed by members of the police, Iraqi security forces, and PMF.

To the Kurdistan Regional Government:

22. Cease the discriminatory allocation of essential services and take action against state officials and others who discriminate against members of minority communities for choosing not to identify themselves as Kurds or affiliate themselves with Kurdish political parties, in accordance with Article 19 of the draft Kurdish Constitution.
23. Recognize the Shabak as a distinct identity, and extend articles 5, 14, 35 and 36 of the Kurdish Constitution accordingly.
24. Cease the discriminatory allocation of essential services and take measures to ensure that minorities can enjoy an adequate standard of living.
25. Provide support for bilingual education for minorities in areas where they form a significant proportion of the population.