



## Introduction:

Violence and terrorism had destructive effects on human rights, especially those regarding to the rule of law, justice and protection and prevention of women from sexual violence related to the conflict, lack of respect for the rights of religious, ethnic minorities and other communities, the lack of respect for the right to freedom of expression, assembly and demonstration and the weakness of the government to fulfill its commitment within the universal periodic review mechanism and contractual mechanisms through neglecting the implementation of the recommendations of those mechanisms, and still lack access to basic services and economic opportunities is a big challenge for large segments of the Iraqi society despite the peaceful protests.

The delay in the enacting of the legislations has led to a large gap in the protection of human rights in Iraq, including with regard to freedom of expression and protection of journalists and human rights defenders, and still the cases of arrest without a warrant, and torture during interrogation and detention, forced disappearances, forced and early marriages and the murder of women many motives is a source of concern to human rights organizations which led to the weakness of the rule of law and the growing power and influence the clans and the proliferation of armed groups.

Which led to the decline of Iraq in the implementation of sustainable development goals, and the weakness of its responsiveness to the requirements of the rights and fundamental freedoms?

## 1. The National Framework for Human Rights in Iraq:

1-1 Despite the fact that Iraq is a member of the eight of the nine international conventions focal point, but is not a member of the Rome Statute of the International Criminal Court, the crimes defined in the Rome Statute has not been criminalized under national law, Iraq did not accept the jurisdiction of the International Criminal Court on the current situation in accordance with article 12, item 3, of the Rome Statute, whatever, Iraq fully binding on the application of international human rights obligations.

1-2 The Iraq constitution of 2005 contained guarantees the fundamental rights of Iraqi men and women, including equality before the law and fair treatment before the law (article 14), and fair treatment in judicial proceedings article 19) 6) and participation in public affairs (article 20), ensures the Iraqis, especially women and children, social and health security, the basic requirements of free and dignified life and housing Article (30) health care Article (31) and care of the disabled article (32).

1-3 On April 9, 2015, the Ministry of Human Rights and the Ministry of State for Women's Affairs were abolished, the cancellation of the two ministries led to the dismantling of the human rights and women's files, which is a large gap in addressing the important issues, especially in the stage of armed conflict, and the human rights file was transferred to the Ministry of Justice, to be responsible and directly on the follow-up, the implementation and evaluation of the reality of human rights in Iraq, Which tried to take into account the implementation of the obligations of Iraq on the mechanism of the Universal Periodic Review, but did not achieve significant results commensurate the size of the challenges and violations and recommendations, and the file of the ministry of women's was transferred to multiple departments and committees without Central And lost its voice in the Council of Ministers of Iraq, Human alliance welcomed the declaration by the Iraqi government in November 2018

establishment the Human Rights Department in the Ministry of Justice, which will be responsible for writing the reports and follow up their implementation.

1-4 The Human Rights Committee of the Iraqi Council of Representatives and other committees, in cooperation with specialized organizations, working towards the enactment of laws (torture, enforced disappearance, protection of diversity and prevention of discrimination), in addition to a law against domestic violence, the law of freedom of expression and assembly and demonstration But the response in the House of Representatives is very weak and controversy continues to be set up and activated Human Rights Courts in Iraq



## 1-6 Establishing the High Commission for Human Rights :

The first session of the Commission of Human Rights ended in 2016, and the committee of experts was formed to select the members of the Council participated by two non-governmental organizations despite the objection and reservations of many non-governmental organizations, but the selection process and the list of candidates resulting from the support of different political blocs in the Iraqi Parliament. The selection process has become politicized (Abolishing the standard of expertise in the field of human rights) and harmed the impartiality of the members of the Committee and has not been consistent with the recommendations of the UN Human Rights Council through the Universal Periodic Review mechanism of the second session of 2014, this has led to a clear gap in the cooperation and communication between the Commission and stakeholders from some non-governmental organizations and even some United Nations agencies and specialized international organizations, on 29 April the parliament amended Law No. 53 of 2008 and removed the United Nations mission, the Office of the United Nations High Commissioner for Human Rights from its location as a full member of the Committee.

**1-7 United Nations Assistance Mission for Iraq ( UNAMI ) :** UNAMI and Human Rights Office in the Mission throughout the previous years (2004-2018) made great efforts in the follow-up to the human rights file through the writing of reports and make the necessary recommendations to the Iraqi Government, Human Alliance appreciates the mission's efforts to support human rights organizations through training and consultative sessions with the parties concerned during previous sessions, but it is noted recently weakness of the follow-up to the application of international human rights mechanisms in Iraq, especially after the second session of the report of the Iraq issue within Human Rights Council Session (28) for 2014, the decline of the interest of the Mission for the current third session compared to the first session of 2010 within the review mechanism, where the mission did not support the alliances and the organizations specialized of the review mechanism (materially or technically) , did not hold any joint consultations between the governmental parties and stakeholders widely and did not contribute in common with the organizations to pressure the government to implement its obligations under international human rights law, especially with regard to the implementation of the recommendations of the contractual committees and recommendations of the Human Rights Council.

**1-8 The implementation of the recommendations of the human rights of Iraq :** The Universal Periodic Review mechanism still does not find a wide area between governmental institutions, in general, two years after approval of Iraq of the implementation of the recommendations, 175 of the 229 recommendations of the Universal Periodic Review mechanism, despite the attempt of the Ministry of Justice to follow up the implementation of those recommendations through a national plan during 2016, but the actual implementation was poor and response of public authorities in Iraq was slow, where the implementation of approximately 15% of the recommendations fully, 37% partially and 48% had not been implemented, and the implementation of the recommendations still related to the political, security and economic situation, with the lack of consultations between the parties concerned in the plan including stakeholders from the non-governmental organizations with the absence of indicators and criteria for the implementation of those recommendations and the lack of attention from many of the executive authorities .

## 2. The right to life and freedom:

2-1 Iraq witnessed during recent years from June 2014 until the end of 2018 various challenges and violations as a result of armed conflicts and terrorist acts with the absence of adequate attention to the fundamental human rights of different groups of Iraqis, the governorates ( Kirkuk ,Ninawa, Al Anbar, Salah Alldin and Diyala) various abuses by terrorist groups (ISIS), in addition to what is witnessed in other provinces and cities, which were affected indirectly as a result of the Disputes and took thousands of lives of the security forces and the popular mobilization and clan to liberate the cities from (ISIS) and accompanied those years of inaction and weak in the application of human rights standards as a result of the lack of financial resources and lower oil prices, which impact directly on the low economic level in Iraq.



## Alliance (Ensan) for the Human Rights - Third Session 2019

2-2 Although the address of the armed groups and terrorist is realistic, but Iraqi government should have made every effort to ensure that the response to the abuses and occupation of the land by (ISIS) is a military action Coordinated that respects the rule of law and protects the human rights of Iraqi civilians, Where the organizations documented some allegations of human rights violations.

2-3 The cities controlled by (ISIS) were not the only ones to lose civilians. Most of Iraq's governorate recorded various terrorist acts and (ISIS) claimed its responsibility for the implementation of it, for example, for the period between 1 January 2014 to 30 June 2017 was about 82,750 civilian victims (29,104 dead and 53,646 injured), and Nineveh governorate ranked the first in the number of victims during the first half of 2017, the number was at least 2,334 civilians (1,357 dead and 977 injured), followed by Baghdad with 1,978 civilian victims (495 dead and 1,483 injured) while Al Anbar, the third highest rate of casualties among civilians and 583 (202 dead and 381 injured) and other cities of Iraq were exposed to separate terrorist attacks, which included most of the Iraqi provinces, including the bombing of Al- Karrada district in July 2016 which killed hundreds of civilians, women, men and children.

### **Violence and attacks on ethnic and religious communities:**

Iraqis from Chaldeans , Syriac , Assyrians, Armenians, Ayzidis, Shabaks, Kakayis and Turkmen were subjected to various crimes.

Ayzidis were subjected to systematic violations, with 6417 missing, including 2869 males, 3548 females and 3263 survivors, 336 men, 850 boys and 1148 females (adults and children), sometimes (ISIS) ask for ransom for the release a kidnap person , the number of remaining 3154 Persons, 1186 male and 2077 female, with discover of 67 mass graves in Shinkal and the destroyed of 68 shrines of Ayzidis , the number of migrants out about 100,000.

2-4 The number of Iraqi citizens Chaldeans , Syriac , Assyrians and Armenians until 2003, 1.5 million inhabitants, and with the absence of security, terrorism, religious extremism and the ongoing crises in 2019 dropped to 400,000, the number of kidnaped by (ISIS) (277) (males and females, including children). the destruction of churches ,Shrines, monasteries and schools, number 82, and the destruction of the cultural heritage of Christians and burning the ancient books and manuscripts, tens of thousands of Christians migrated out of Iraq for safety, on 15 February 2017, a mass grave was discovered west of Mosul have remains of 150

Christians civilian ,The total of the stolen property and money and jewelries by (ISIS)7,600,00,000 seven billion million dinars. After the liberation, government efforts and civil society, including Shlomo organization for documentation , succeeded in librating 185 abductees (male and female). 34 of them were killed during an occupation by (ISIs) under unknown circumstances. 58 people are still missing today (men, women and children).

2-5 The other components were exposed kidnapping and killing. On March 13, 2016, (ISIS) organizer killed nine men of Al Shabak in the village of Birbum in Ba'ashiqah nearby district of Mosul and more than 400 (men and women) of Shia'a Turkmen were kidnapped, including 93 women at the beginning of the entry of (ISIS) to Tal Afar in Mosul. Iraqi women got hideous crimes where the forensic medicine for 2015 recorded 837 a woman sentenced to death by (ISIS). Women and girls from Ayzidis, Christians and Arab women were subjected to violations and practices rape, sexual slavery, forced marriage and sale on the markets, as well as a change of religion to AYazidis women.

2-6 Trafficking the abducted women with prices, which (\$40-130) for adult women and the price of 160 dollars for children aged 1-9 years.

### **Spyker's Crime**

One of the heinous crimes took place after capture students of the air force in the Air Base Spyker, on 12 June 2014, after the control of (ISIS) of the city, where captured (2000-2200) students, mostly Shia'a, they killed them and threw them into the river and some of them were buried alive, Babil and Thi Qar governorates is the most .provinces in number of the victims of Spyker.

Iraqi authorities carried out on 21 August 2017, the death penalty to 36 convicted of the perpetrators of the massacre of Spyker, the government announced in 2017 to extract the remains of more than 1,000 victims of the Spyker, some government records show that the number has exceeded 2,000, and many families are still waiting to receive the remains of their sons, although almost four years have passed.



### **The use of chemicals in the manufacture and use of weapons by (ISIS) :**

On February 25, 2015, Sinjar was attacked with rockets, resulting in symptoms such as vomiting, suffocation, sneezing and eye inflammation of some returnees may be as result of chemical elements, (ISIS) claimed its responsibility for the cases of other shelling. On the evening of 8 March 2015, at 4.30 Taza district in Kirkuk was exposed to attack of rockets (41 missiles ) loaded with contaminated gases ( mustard and chlorine), which fell in residential areas and some agricultural fields and led to the deaths of 4 children (3 girls and a boy) and dozens were injured by chemical burns and suffocation, rashes and failure of the kidneys and register of abortions ( 7 cases) in the nearby areas of the accident as a result of suffocation of women.

### **3. The administration of justice and the rule of law in Iraq :**

#### **The Prisons:**

3-1 The prevention of specialized non-governmental organizations in Iraq to visit the prisons belonging to the Ministry of Justice, in addition to preventing or difficult to visit detention and the investigation sites of the Ministry of the Interior and follow-up to the reality of those prisons through various sources. Organizations have documented and received allegations of ill-treatment as a result of torture during arrest, detention or investigation. Despite alleged by some of the accused before the Iraqi courts that they had been subjected to torture by the security institutions to pressure them to confess to crimes, but that the judges of such courts and public prosecution do not take those allegations and are not investigated. Many allegations were submitted by persons who were arrested under the Terrorism Act No. 13 of 2005 some claimed that they were detained for a period of years without charges or trial.

3-2 The overcrowding phenomenon a recurrent and old problem , and sometimes exceed capacity ranging up to 50-70%, despite efforts by the Ministry of Justice, but that the implementation of plans for the construction of new buildings and the renovation of existing buildings is proceeding very slowly. While the Ministry of Justice is doing everything possible to ensure the transfer of detainees and prisoners who suffer an emergency or health problems to hospitals, most of the detention facilities and prisons lack the appropriate medical staff and equipment. The Ministry of Justice and periodically form a joint committee of the ministries of justice and health to address this issue, the delay in resolving the issues of the detainees is one of the reasons for the overcrowding in the central prisons in Basra, AlHilla, AlEmara and AlMutthana.

3-3 The Ministry of Justice and periodically release ending judicial sentences in accordance with the law. According to the Ministry of Justice, the number of released the amnesty decision has reached (7537) inmates since November 2016 to the end of April 2018. Despite the differences in the penalties and charges against the released, they do not receive any qualification or specialized training to move from prison to release and freedom.

3-4 It is not easy to obtain accurate figures of the detainees and convicts, and all the detainees are placed under the authority of governmental institutions and ministries of justice, interior and defense and the Ministry of Labor and Social Affairs. In 2016 the Iraqi Council of Representatives passed amended amnesty Law at which the text of the re-trial of convicted detainees on the basis of coerced confessions, or based on evidence acquired through confidential informants. The Ministry of Justice reported that the authorities had released about 4,500 detainees from the prisons of the government in 2016.

Prolonged detentions without due process and without judicial orders remained a systematic problem nationwide, especially during and immediately following the campaigns by the Iraqi security forces to liberate the land. The lack of judicial review was due to several factors, including the large number of detainees, and the lack of documentation of the detention process, the slow process of criminal investigations, and the insufficient number of judges and trained judicial personnel, and the inability or unwillingness of authorities in the use of bail or other conditions of release, and the lack sharing of information, bribery, corruption, the overcrowding in pre-trial detention remained a problem in many detention facilities.



## Alliance (Ensan) for the Human Rights - Third Session 2019

### 4-Cases of torture and ill-treatment

4-1 Although Iraq has banned all kinds of torture within the Iraqi constitution, Article 37 (1) (c), and despite its adherence to the Convention against Torture, we directly or indirectly monitor detainees and prisoners complaining of torture and / or ill-treatment during their detention in the prisons of the Ministry of the Interior and the Counter-Terrorism Directorate after arrest and during the investigation phase, All allegations are in line with the multiple sources of detainees and prisoners under the authority of the Ministry of Justice interviewed after their release, police and judicial sources, defense lawyers and human rights organizations have access to police detention centers, where the sources that torture is common practice aimed at forcing the accused to confess crimes to justify accusing, the courts are based on this recognition, or based on it later, mainly in their convictions.

4-2 The father of the victim (M,M,A) born (1991) (Al Anbar governorate) was arrested by the security forces without an arrest warrant, his family did not know until now the place of his presence and has not been sentenced to appear within the names of convicted persons, with search his family requests to access to their son (they have been blackmailed by security men and took money from them and pretend will know information on the victim), however they did not dare to complaint for fear of being hunted by security forces.

4-3 (A, M, H), a 47-year-old from Al-Ramadi district in Al-Anbar governorate, who was arrested by the security forces for two years without an arrest warrant, but on the basis of intelligence information from secret informer, the suspect was tortured with psychological trauma that caused him to suffer Of neurological cases and dysfunction in the kidneys, prevented him from practicing or accepting in any work.

4-4- As a result of the lack of a sufficient number of judges, which has become the challenge facing the judicial system in Iraq, many accused of different cases delay their trial, and sometimes noted expedite private trials.

4-5- Iraqi police arrested Hussein Mazen (one of the minors) and three people at Al-Hindia barrier in Karbala after one of Hussein 's companions failed to provide identity documents as alleged. During the detention, the four detainees were alleged to have been beaten by police officers, causing Hussein 's unconsciousness who was taken by the police to Hussein Hospital in Karbala, where it was reported that his death was declared upon his arrival and the autopsy was carried out. Although the Ministry of the Interior has established a committee to investigate the incident and recommended that any members of the Iraqi police who participated in the investigation but he did not release publicly the results of the investigation and trial, despite the persistent claim of Organizations.

4-6- Other cases of torture have been documented in various cities and facilities, mostly during arrest ,detention or investigation , and some cases of torture lead to death, as happened in AlKut / Wasit governorate of the accused (S.K.H)(June 2011) who was tortured and killed during the investigation. In the governorate of Karbala Thaeer Adnan Lua'ibi al-A'miri, 21, died in July 2017 after being tortured by the Karbala police , according to the testimony of his relatives. Other cases in Al Anbar, Muthanna and Basra, involving cases of torture not only for adults but also for children accused of.

4-7-It notes the absence of due legal process, it has been claimed that detainees and prisoners were not informed during the investigation of their right to remain silent or right in the presence of a lawyer, and in some trials suspects attend without legal representation.

8-Monitoring of Alliance (Ensan) refers that the Iraqi government is not interested in implementing the concluding recommendations of the Committee against Torture in Iraq of 2015, as there is no national plan or government initiatives to implement the Committee's recommendations under various violations of torture or inhuman or degrading treatment.

### **The administration of justice and the rule of law in Kurdistan region :**

The overcrowding and poor health conditions in the detention centers continue, including in the Zakho district of Duhok governorate, in Jamchamal and Kalar in the Sulaymaniyah governorate. The detention facilities in Chamchal and Zakho did not include rooms dedicated for detained women, the number of beds was not enough for the number of detainees in some Detention Facilities Detention such as the Zakho, Asayish Zakho, Dohuk, Asayish Erbil and Asayish Geshti Erbil detention centers. Detainees complain frequently about the lack of medicines, as the detention centers were not equipped to care patients who need advanced treatment, but these are rarely referred to hospitals for care, with the absence of rehabilitation centers for those who are released for the purpose of integration.





## **Alliance (Ensan) for the Human Rights - Third Session 2019**

### **Cases of torture and ill-treatment in the Kurdistan Region :**

The accused were subjected to torture and/or ill-treatment by anti-crime police in most cases or by the Asayish forces in order to obtain confessions, and remains the suspects for long periods in the phase of pre-trial detention, defendants in the prisons of the Asayish administered by the Government of the territory sometimes spend more than six months in detention without trial. In September 2017 there were an estimated 1,700 of pre-trial detainees, including 71 women in different places of detention had been for months without trial, in the 29 January 2017 according to the information the Government of the Kurdistan Region was torturing children, aged 11 and 17, and .(preventing lawyers access to them, because of suspected of belonging to (ISIS

The activists, human rights defenders and journalists are subjected to documented cases of arrest ,detention, torture and ill-treatment, sometimes without a warrant, (Ensan) alliance has documented dozens of cases of these attacks.

### **5-The rights of women :**

5-1- In recent years increased the suffering of women , with increased negative practices and violations during conflicts, or without it, increased cases of honor killings , despite the absence of accurate data, but the governmental and non-governmental information refers to the killing of several hundred per year, Also Targeted the women in important positions, as politicians, journalists, physicians and human rights defenders because of their challenge to social roles and the leadership of influential public positions. In the period from August to September 2008, four Iraqi women were assassinated, including human rights activist Sou'ad Al Ali in Basra Governorate.

5-2- The Government has taken some positive steps for the protection and promotion of the rights of women and girls in Iraq. It was the launch of the national plan of action to the Security Council resolution No. 1325 February 2014 and the Council of Ministers approved a national strategy for the advancement of the reality of women for the years 2014 - 2018, as a result of armed conflicts and crimes of (ISIS), the government announced its ratification of the emergency plan for resolution 1325 on 26 May 2015 with special effort of the organizations and the Ministry of State for women's affairs before it's cancellation, women's organizations and alliances including the Iraqi network of resolution 1325 contributed in the implementation of national plans, and to contribute with local governments to declare the local plans in accordance with the reality of the governorates and the requirements of resolution 1325.

5-3- Regarding the political participation of women: Despite the presence of the quota in the Iraqi parliament, but noted the widening gap between women and men to senior positions and leadership of the ministries According to the Ministry of Planning, the rate of participation of women in the ministries (28.3%),the minimum of the Ministry of Commerce (5.6%) and the upper limit of the Ministry of Finance (92.8%) of independent bodies (15%) and (41.5%) of the Central Bank of Iraq and (0%) of the Federal High Court, there is no post of deputy-minister for women in the Iraqi government.

5-4-The number of female suicide cases increased significantly during the years 2015-2018, with the governorates of Karbala, Muthanna, Nasiriyah and Baghdad registering scores of suicide of women and girls during the years 2015-2018. In fact, some of them are murder rather than suicide, many of the women to be released after the end of the penalty, they are threatened with death or resorting to other governorates for safety, which used for different work.

### **Trafficking in women and forced prostitution**

Because of the inappropriate way in which the government collects data, the numbers of women and girls who have been trafficked are unknown. The Government of Iraq reported 266 potential cases of trafficking in 2017, a figure lower than its 2016 counterpart of 314 cases, of which 68 are suspected of trafficking for sexual exploitation. Trafficked women are also at risk of arrest, criminal prosecution, imprisonment and deportation due to Prostitution If they report trafficking, the government does not initiate trafficking cases unless the victim charges a specific person, but most victims do not accuse anyone of fear of revenge or because they do not know who is trafficked, even after the progress a state of trafficking report is rarely initiated Police are investigating suspects with trafficking in women or with brothels, prompting human rights advocates to doubt that the government is involved in trafficking in women. Government authorities lack



## Alliance (Ensan) for the Human Rights - Third Session 2019

sensitivity in dealing with trafficking cases and have in some cases insulted survivors of trafficking , And despite legal requirements to provide services to victims of trafficking, the Iraqi government often refrains from providing such services, providing only limited protection and support to the victims.

### **violence against Woman**

The high rate of violence against women in all its forms has become a recognized problem faced by one in five Iraqi women. 23% of married women aged 15-45 suffer violence, whether psychologically, physically or verbally, 10%sexual violence and 40% control by their husbands and the more women's education, the less exposed to the behavior of the dominion of man's ,psychological violence, verbal and physical abuse, compared to the ladies in the aged 45-49 years, and even the writing of the report is still a law against domestic violence projects has not been approved yet and therefore still shelter policy to organize and management of shelter and support with the resources waiting for the review of the Ministry of Labor and Social Affairs.

The position of the men of violence varies depending on the governorates of Iraq, it was observed that the proportion of men who support violence against women in Salah al-Din governorate reached 60%, the highest among the provinces, followed by the Nineveh province with 55% and then the governorates (Najaf, Wasit, Al Anbar), In Baghdad the percentage was 39% and 20% in the Muthanna governorate. The governorates of the Kurdistan region recorded the lowest percentage of support for violence among men as .it reached 7% in the governorate of Sulaymaniyah , 17% Erbil, , and 12% Dohuk.

In the view of 42% of the women said that women should not participate in elections as candidates and as voters or both, they believing that matter is for the men.

### **Forced marriage and early marriage :**

The proportion of girls and women who marry before the age of 18 at about 24%, a study conducted in 2015 found on marriage in nine Iraqi provinces that 33.9 percent of marriages were outside of the court , and 22% of them under 14 years, Forced marriage and early marriage have become a strategy for economic survival for many poor Iraqi families living in the context of ongoing conflict and insecurity, which may decide to marry their daughters early .on base that this will save them financial and security burdens

Also, poor access to education and economic opportunities to make women and girls unable to support themselves financially, obliging them to accept unwanted marriages, hoping to be able to provide better economic opportunities to their families, since the rate of marriages was the economic incentive which cause about 51% of the total cases of forced marriage, which have been analyzed in the study in 2015.

### **6-violence against Woman in Kurdistan region :**

6-1- During the three months only (November and December 2018 and January 2019), noted the increase in cases of arson, suicide, violence and sexual abuse. The directorates of combating violence against women in Kurdistan (Erbil, Sulaymaniyah, Dohuk, Rabreen, Karamian and Suran) reported 23 cases of murder and suicide, 50 cases of burning and self-sacrifice, 2138 cases of verbal or physical abuse, and 20 cases of sexual violence.

6-2- Before 2015 the murders of women by directorates of the fight against crime have been investigated as public offenses. In February 2015, the Ministry of the Interior in the Kurdistan Region investigated the murder of women by the Crime Prevention Directorate to the anti-violence offices affiliated with the Domestic Violence Court established by the Domestic Violence Act. It was noted that the offices for combating violence against women lacked the resources and capacity to carry out such investigations expeditiously. In April 2016, the Domestic Violence Investigation Commission of the Judicial Council indicated that the Domestic Violence Act did not provide for such investigations. In particular, the Domestic Violence Tribunal is limited to investigating domestic violence offenses punishable by three years' imprisonment or less, while the murder may be punishable under the Iraqi Penal Code. In response, on July 31, 2016, the Judicial Council issued an order, based on a case of premeditated murder, to transfer responsibility for the investigation of the murder of women to directorates of the fight against cri



## **Alliance (Ensan) for the Human Rights - Third Session 2019**

### **7- The freedom of expression of opinion , assembly and peaceful demonstration and protection of journalists :**

#### **7-1- Legislative framework :**

The third session of the Iraqi parliament failed to enact a law of freedom of expression and peaceful demonstration for many reasons, the first is the continuous objection by organizations as a result of the lack of consistency and coherence of the articles of law with legal guarantees in the Iraqi constitution and the obligations of Iraq International, a clear limitation of this freedom when the condition of prior authorization in article 7. The final provisions of the punitive Rules detracted the freedom of opinion, which is contrary to article 46 of the Constitution, as well as other articles detract from the right to demonstrate , this led the organizations and activists to stand before the law, pending it's amended and legislation in the next parliamentary session 2018-2022.

#### **7-2- Protection of Journalists :**

Organizations and activists have documented reports of attacks on journalists in Iraq, including murder, attempted murder and death threats, arrests and harassment and confiscation of equipment, on 15 June 2015, Alsharqya News Channel correspondent Minas Al sehal accompanied by cameraman were detained by Command of Baghdad Alaquly, who works in Albaghdadya channel was attacked in his Operations . On 23 May 2015 Journalist hussam home in the city of Samawa, after covering the works of violation of the right to adequate housing in Al-muthanna governorate.

On 24 January 2017, claimed that journalist and cameraman were beaten by members of the 11th division of the Iraqi army to prevent them from covering the bombing of Alnahdha area in central Baghdad in the same day. On 30 April 2017, unidentified gunmen fired on the journalist in his home in Diwaniyah.

During 2017, (200) journalists were assaulted in various Iraqi provinces, between (beatings, prevention, threat, expulsion, detention without a warrant, attacking the offices of media institutions, the killing , the confiscation of the journalists' tools, prosecution of journalists and media institutions because of publishing).

On 16 March 2017 was the killing of activist and writer Riham Imad Suleiman, known Riham Alabed, inside her apartment in Al-aadhmiya district in central Baghdad, being active in the area of detecting corruption files , the press , human rights and aid the displaced without the know the perpetrators.

#### **7-3-Freedom of assembly and demonstration :**

Previous years 2015-2018 witnessed many demonstrations and protests in the capital Baghdad and the other governorates of the bad services, such as lack of water and electricity, and most of those demonstrations were accompanied by the cases of direct attacks journalists or demonstrators, As well as the policemen arrested a number of activists and demonstrators, unjustified charges which are not consistent with national and international legal guarantees and the practice of intimidation, torture and ill-treatment of detained demonstrators.

In March 2017, there were clashes witnessed by demonstrations that came out in protest against the Electoral Commission and the law of elections and change the Commission, and fell in these demonstrations 4 dead and 320 wounded, including 79 injured by live bullets.

On 8 May 2017, unidentified gunmen driving three cars kidnapped seven male students and civilians activists and workers from their home in Al-bataween in the central of Baghdad , and led them to an unknown place. Some of the abductees are human rights activists who regularly participate in demonstrations in Al-Tahrir Square. It is alleged that the abductees were beaten before being released on 9 May after the invitation of the president of Iraq to the security authorities to investigate the incident and to take all necessary actions to find out the fate of the abductees.

On 1 March 2017, a number of students activists were arrested in Wasit governorate, as a result of being accused of rioting that accompanied the demonstrations that objecting to the performance of the Iraqi prime minister, during his visit to governorate. The arrests and detentions were accompanied by cases of torture and ill-treatment by police officers. The organizations and activists played a role in pressure the government to release the detained students.





## Alliance (Ensan) for the Human Rights - Third Session 2019

Despite the government's initiative on March 4, 2017 and through the Ministry of Justice to pardon them, their release was not carried out in a flexible , as they were released periodically and too late with the detainees being forced to make personal pledges and community guarantees. The central and southern governorates of Iraq witnessed continuous protests during the years 2015- 2018 a claim to fight corruption and the provision of water and electricity services, although the demonstrations were peaceful in nature, but the use of violence by security authorities led to the killing and wounding and detaining hundreds of demonstrators in Basra during the months of July - August 2018 been killed 5 and wounded 168 and detaining 263. On 14 August 2018 Harith Al Salamy died after being beaten over the head by anti-riot forces in Basra during his presence in the tent of the protesters , on the night of 8 September 2018 Ali Abbas one of the demonstrators was assassinate , who was found dead on the outskirts of the Shatt al-Arab and the marks of torture and breaking hands were clear on his body. During the demonstrations, and then random arrest of demonstrators without judicial warrants in places that lack of hygiene, such as bathrooms or iron cages, the government and some of the security authorities bring charges against demonstrators and fabricating accusations during the demonstrations and popular protests. during the August 2018 in Al- muthanna governorate 4 of the demonstrators were killed, all of them young people and injuring 67, dozens detained after the demonstrations, with the investigation and ill-treatment, some of them signing of a written pledge not to participate again in the protests or demonstrations, according to some of the Detainees.

### **8- Freedom of expression and protection of journalists in Kurdistan of Iraq :**

Freedom of expression in the Kurdistan region is primarily based on Press Law No. 35 of 2007, although the government of Kurdistan region declared their commitment to support freedom of expression and protection of the rights of journalists in the region, but the continuing violations.

#### **Violations against journalists and impunity :**

Legal Violations and restrictions on freedoms made the fate of the journalists and their daily work in the field of journalism is measured by the annual statistics, which issued on violations against them and increasing in the frequency. The violations and practices toward journalists in Kurdistan during the years (2015-2018) can be summarized as follows:

Assassination on the basis of occupation (4), Martyrdom as a result of coverage of battles with (ISIS)( 6), injury during cover of battles (32), assault of stones (7), verbal abuse( 9), assault of severe beating (101), detention and illegal arrest (81), Confiscation of photographic equipment including destruction of devices 99, Breaking into the television channels and the offices of media institutions 10, the legal detention by judicial order (10), closing the offices of the TV channel (7), the threat (43), prevention of coverage (306), discrimination between journalists (14), prevention from travel outside of the Kurdistan Region( 3), the confiscation of the Magazine (1), electronic jamming and attacks the broadcast off (32), raiding homes of journalists including shooting (8) , shooting on television channels teams (2), an armed attack on a house of a journalist (1), the attempt of kidnapping (1).

Examples of this , the kidnapping of the correspondent of the Rose News agency Wadated Hussein on 13 August 2016 and found dead, r the criminals left marks of torture on his body, the police in Dohuk governorate did not give any information about the circumstances of the assassination of the journalist Wadat Hussein and its perpetrators, On 1 December 2016 after four days after his kidnapping, the body of journalist (Shokry A'amedy) the reporter of KNN channel was found and thrown in the ruins of one of the abandoned villages near Alamadiyah district. On Monday morning, October 30, 2017, masked gunmen broke into the house of journalist Arqan Sharif, a cameraman of Kurdistan TV in Daqouq district in the Khursi district. The gunmen assassinated the journalist. The security authorities did not discover those who committed the crimes. , Or arrested.

#### **Freedom of assembly in Kurdistan :**

On 2 January 2015, there were demonstrations in the Sayed Sadiq in Sulaymaniyah governorate in Kurdistan region lasted for three days, where the demonstrators called for improving the conditions of the public services and living standards also protested the decision of Iraqi Council of Ministers to declare that Halabcha is a separate province of , including Sayed Sadiq. Anti-riot police came to the sit-in and dispersed demonstrators using tear gas. During



## Alliance (Ensan) for the Human Rights - Third Session 2019

violent clashes between police and demonstrators, one demonstrator was killed , 144 others injured, and 60 police officers were also injured. The director of the district and the director of the municipality in Sayed Sadiq resigned and were accepted by the governor of Sulaymaniyah under constant pressure and demands of the demonstrators. On 11 October 2016, the Council of Ministers of the Kurdistan Regional Government adopted regulation on the implementation of the law on the right of access to information by the Government of the Kurdistan Region in 2013, in accordance with article 21 of this law.

In late 2016 and early 2017, protests erupted for social justice, including paying civil servants, particularly in Sulaymaniyah with others in Karamian, Halabcha and Rabrin. Protests mostly consisted of educational staff and joined some of the staff in the public sector. Those protests have been accompanied by some of the arrests and acts of violence, including attacks on teachers who declared the strike.

### Recommendations

- 1- The speed up the provision of protection for survivors of sexual violence and gender based violence, psychological and social support, medical assistance and the implementation of the obligations of Iraq in the joint statement of the sexual violence on 23 September 2016.
- 2- Revision of the Penal Code No. 111 of 1969 and the Code of Criminal Procedure (Act No. 23 of 1971 anti-terrorism law No. 13 of 2005 to ensure the compatibility of the provisions with international human rights law.
- 3- Ensure the implementation of the commitments of the Convention against Torture and to ensure that the investigation of complaints of torture in a way that achieves the prosecution of offenders and to ensure compensation of victims and the provision of medical, social and psychological assistance.
- 4- The construction and rehabilitation of Iraqi prisons including fits with absorptive capacity and the provision of all basic services, and the provision of specialized centers for the rehabilitation of the Released, socially, psychologically and intellectually before integration into society.
- 5-The provision of specialized training for judges and investigators in crimes of sexual violence and gender-based violence and conduct an urgent investigation, independent, impartial and comprehensive in allegations of enforced disappearance, and to speed up the provision of shelters for survivors (men and women) of violence.
- 6- Providing appropriate detention places for female minors with all basic services
- 7- The speed up of the legislations (The law against domestic violence and the law of torture, the enforced disappearance law, the law on freedom of expression and peaceful demonstration, the law on the protection of diversity and the prevention of discrimination).
- 8- Providing adequate protection for journalists, guarantee freedom of expression and access to information, guarantee freedom of assembly and peaceful demonstration, and punish perpetrators of violations against journalists and demonstrators in Iraq especially in Kurdistan Region.
- 9- Iraq's commitment to the principles of Paris and the selection of members of the Commission on Human Rights away from partisan interventions.
- 10- The formation of a committee or body by the parliament of Kurdistan for the follow-up to violations against journalists, including the non-application of the law of the press work and the right of access to information.
- 11- Accession to the Rome Statute of the international criminal court and adjusting the Iraqi criminal law in accordance with international treaties, especially the Convention on the Prevention and Punishment of the Crime of Genocide.
- 12- The amendment of the articles of the Iraqi Penal code, including article 128 and article 130 and article 409, which issue lenient sentences on acts of violence, including murder, committed "honor killings" as called.