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

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

Submitted for the review of Iraq’s compliance with the Convention on the Elimination of All Forms of Discrimination against Women at the October – November 2019 74th Session

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Table of Contents

I. Sexual and Gender Based Violence in Iraq (Articles 1-3, & 6) .................................................. 1
   A. Honor Killings .................................................................................................................................. 1
   B. Response by the Government of Iraq.............................................................................................. 2
   C. Forced, Temporary, and Early Marriage............................................................................................ 2
   D. Response by the Government of Iraq.............................................................................................. 3
   E. Trafficking and Forced Prostitution.................................................................................................... 4
   F. Response by the Government of Iraq.............................................................................................. 4
   G. Recommendations.......................................................................................................................... 5

II. Sexual and Gender-Based Violence (SGBV) Committed by ISIL
    (Articles 2, 3, 5, 6, & 15) ................................................................................................................ 6
    A. The Government of Iraq’s Failure to Prosecute Sexual and Gender-Based Violence
       Committed by ISIL ......................................................................................................................... 6
    B. The Government of Iraq’s Failure to Hold ISIL Accountable for Sexual Slavery Crimes 8
    C. Recommendations........................................................................................................................ 10

III. Denial of Access to Safe Shelter for Persons Fleeing Domestic Violence
     Including “Honor” Killings (Articles 2, 3, 5, & 6) .......................................................................... 11
    A. Response by UN Treaty Bodies on the Lack of Access to Shelter ............................................. 12
    B. Iraq’s Family Violence Protection Law ......................................................................................... 14
    C. Government of Iraq’s Response .................................................................................................. 14
    D. Recommendations........................................................................................................................ 15

IV. Women Denied Civil Status Identification Documents (Articles 1-3, & 9) ................................. 16
    A. Recommendations........................................................................................................................ 17

V. Discrimination Against Women with Disabilities in Iraq (Articles 3, 12) ................................. 18
    A. Recommendations........................................................................................................................ 20

VI. Discrimination Against Afro-Descendant Iraqi Women
    (Articles 3-4, 8, & 10-11) ................................................................................................................ 21
    A. Lack of Adequate Living Conditions, Education, and Employment
       for Afro-Iraqi Women.................................................................................................................... 22
    B. Lack of Access to Political Participation for Afro-Iraqi Women ................................................. 23
    C. Recommendations........................................................................................................................ 23
I. Sexual and Gender Based Violence in Iraq (Articles 1-3, & 6)

A. Honor Killings

“Honor” killings remain widespread in Iraq in part due to the lack of legislation to prevent and punish them, and penal code provisions that all but encourage honor killings by allowing mitigated sentencing for murder in certain cases.\(^1\) 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.\(^2\) However, available statistics represent a likely undercount of “honor” violence due to lack of reporting and the reinforcement of tribal and religious norms that lead to such killings often being categorized as accidents or suicides at the behest of victims’ families.\(^3\)

In the aftermath of the Islamic State of Iraq and the Levant (ISIL) conflict, 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.\(^4\) Some women trafficking victims falsely charged with engaging in prostitution and unjustly incarcerated, had to seek refuge at a shelter in Basra, being unable to return home after release due to the threat of “honor” killings by their families.\(^5\) 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.\(^6\) Between August and September 2018 alone, four prominent Iraqi women were assassinated, including women’s rights activist Suad al-Ali.\(^7\)

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1 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. 40-41, UN Doc. No. A/HRC/38/44/Add.1 (June, 2018); Minority Rights Group International & Ceasefire Centre for Civilian Rights, The Lost Women of Iraq: Family-Based Violence During Armed Conflict, p. 27 (November 2015); Fazel Hawramy, Buried Alive by her family, Iraqi Woman Fears for Her Life as Murders Go Unpunished, Reuters (July 12, 2017).  
3 UN High Commissioner for Refugees (UNHCR), International Protection Considerations with Regard to People Fleeing the Republic of Iraq, p. 92 (2019); Minority Rights Group International & Ceasefire Centre for Civilian Rights, The Lost Women of Iraq: Family-Based Violence During Armed Conflict, p. 27 (October 2015).  
6 Ceasefire Centre for Civilian Rights & Minority Rights Group International, No Place to Turn: Violence against Women in the Iraq Conflict, p. 17 (February 2015).  
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.” Law enforcement, often viewing violence against family members as a private matter, is reluctant to investigate such crimes and hold perpetrators accountable. The culture of impunity this engenders prevents women from reporting sexual and gender-based violence due to fears of indifference from authorities and retaliation in the form of an “honor” crime. Women have also been held in prisons or detention centers in order to protect them from potential “honor” killings, in clear violation of their human rights.

B. Response by the Government of Iraq

In the Iraqi government’s report to the Committee, it claims that the phrase “honourable motives” used in the Penal Code covers all “honourable motives” and does not exclusively relate to crimes affecting women and therefore cannot be considered discriminatory against women. This interpretation fails to acknowledge that the “honourable motives” defense is disproportionately used as a mitigating defence for people who commit violence against women and is not a recognized justification for murder under international human rights law. Allowing mitigated sentencing excuses some of the worst forms of violence against women, and can deprive them of their right to life.

C. Forced, Temporary, and Early Marriage

Forced, temporary, and early marriage 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 the lowering of that age to 15 with a guardian’s consent and judicial permission. Forced, temporary, and early marriage have become a strategy of economic survival for many Iraqi families living in poverty in the context of ongoing conflict and insecurity. In a 2015 study, approximately 51 percent of

10 Interview with Iraqi women’s organization representative, Istanbul, Turkey (January 22, 2015) (on file with MADRE, name omitted for safety reasons); UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq*, p. 34 (2012).
14 Interview with Iraqi human rights activist (November 30, 2016) (on file with MADRE, name omitted for safety reasons); Oxfam and International Alert, *Now is the Time: Research on Gender Justice, Conflict and Fragility in the Middle East and North Africa*, p. 100 (2017).
forced marriages involved an economic incentive.\textsuperscript{15} There are also reported incidents of fasliyya, the practice of marrying women off or otherwise using them as bartering chips to resolve disputes.\textsuperscript{16} A study published in 2016 found an estimated 24 percent of Iraqi women between 20 and 24 reported having married or been in a union before the age of 18.\textsuperscript{17} A 2015 study of marriages in nine governorates across Iraq found that 33.9 percent of marriages were conducted outside the courts system; 22 percent of these involved girls younger than 14 years old.\textsuperscript{18}

There are no legal provisions that offer protection for women who turn to courts to avoid or escape forced, temporary, or early marriages, leaving them vulnerable to retribution by family members.\textsuperscript{19} In addition, because many forced, temporary, and early marriages are conducted outside the courts, women and girls are often unable to take advantage of legal remedies to escape these marriages.\textsuperscript{20} Women in these unregistered marriages cannot obtain rights to alimony or widow’s benefits, and cannot register births of children produced from the marriage, compounding the human rights violations resulting from forced or early marriage.\textsuperscript{21} In 2017, United Nations Assistance Mission for Iraq (UNAMI) observed that women and girls who were married to ISIL fighters—including those in coerced marriages—risk discrimination and forms of collective punishment. UNAMI called for assistance at the local level to ensure fair treatment of these women and girls, and to streamline registration and annulment of their marriages and registration of the births resulting from them in a non-stigmatizing way.\textsuperscript{22}

D. Response by the Government of Iraq

The Iraqi government states that the Personal Status Code (1959) protects against forced and early marriages.\textsuperscript{23} However, the Personal Status Code allows youth as young as 15 to marry with a judge’s authorization.\textsuperscript{24} In addition, forced marriages may be declared null and void under the Personal Status Code, but only if the marriage has not been consummated,\textsuperscript{25} a provision

\textsuperscript{15} Miriam Puttick, Minority Rights Group International & Ceasefire Centre for Civilian Rights, \textit{The Lost Women of Iraq: Family-Based Violence During Armed Conflict}, p. 21 (November 2015).
\textsuperscript{17} UN Children’s Fund (UNICEF), \textit{The State of the World’s Children 2016}, p. 151 (2016).
\textsuperscript{18} Miriam Puttick, Minority Rights Group International & Ceasefire Centre for Civilian Rights, \textit{The Lost Women of Iraq: Family-Based Violence During Armed Conflict}, p. 23 (November 2015).
\textsuperscript{19} Miriam Puttick, Minority Rights Group International & Ceasefire Centre for Civilian Rights, \textit{The Lost Women of Iraq: Family-Based Violence During Armed Conflict}, p. 24 (November 2015).
\textsuperscript{20} Miriam Puttick, Minority Rights Group International & Ceasefire Centre for Civilian Rights, \textit{The Lost Women of Iraq: Family-Based Violence During Armed Conflict}, p. 23 (November 2015).
\textsuperscript{21} Miriam Puttick, Minority Rights Group International & Ceasefire Centre for Civilian Rights, \textit{The Lost Women of Iraq: Family-Based Violence During Armed Conflict}, p. 23 (November 2015).
\textsuperscript{24} Iraq Personal Status Law No. 188, Art. 8.
\textsuperscript{25} Iraq Personal Status Law No. 188, Art. 9.
particularly harmful to survivors of marital rape. As recently as January 2017 members of the Council of Representatives in Iraq submitted amendments to the Personal Status Code that, had they been successful, would have lowered the age of marriage.\textsuperscript{26} This followed a similarly unsuccessful attempt to amend the Personal Status Code in 2014 to set the legal age for marriage at nine for girls and to allow for temporary marriages.\textsuperscript{27} Advocates fear similar amendments may arise again.\textsuperscript{28}

E. Trafficking and Forced Prostitution

The number of women and girls trafficked in Iraq is unknown due to the Iraqi government’s insufficient guidelines and training for officials on identifying victims, and its inadequate referral mechanisms.\textsuperscript{29} However, the Iraqi government opened investigations into 356 trafficking cases in 2018, up from 266 in 2017.\textsuperscript{30} Of the 148 identified victims, 74 were female victims of sexual exploitation\textsuperscript{31} Trafficking victims risk arrest, criminal prosecution, imprisonment, and deportation for prostitution if they report being trafficked.\textsuperscript{32} Courts require victims to testify before their alleged perpetrators to receive a referral for necessary services,\textsuperscript{33} and many do not report out of fear of retaliation.\textsuperscript{34} Government authorities lack the sensitivity to handle trafficking cases and in some cases verbally abuse survivors.\textsuperscript{35} Moreover, key government security officials have reportedly shielded traffickers from investigation and prosecution.\textsuperscript{36} The Iraqi government has not provided details on any efforts to investigate allegations of security and military personnel complicit in sexual exploitation and trafficking of women and girls in IDP camps.\textsuperscript{37}

F. Response by the Government of Iraq

The Iraqi government states it has taken steps to combat trafficking of women and girls,\textsuperscript{38} yet these efforts fall short. While the government operates a shelter for trafficking victims, only seven recipients used the shelter in 2018, and civil society organizations report that the shelter provides

\textsuperscript{29} US Department of State, \textit{Trafficking in Persons Report 2019}, p. 248 (2019); Minority Rights Group International & Ceasefire Centre for Civilian Rights, \textit{No Place to Turn: Violence against Women in the Iraq Conflict}, p. 31 (February 2015).
\textsuperscript{35} Minority Rights Group International & Ceasefire Centre for Civilian Rights, \textit{No Place to Turn: Violence against Women in the Iraq Conflict}, p. 33 (February 2015).
inadequate psychosocial, medical, and vocational support.\textsuperscript{39} Trafficking survivors in Iraq still lack access to basic protection, services,\textsuperscript{40} and justice, and may become targets of prosecution. In 2018, for example, local experts in Iraq reported a significant number of prosecutions against trafficking survivors.\textsuperscript{41} First responders and judges remain unaware of human trafficking legislation and do not enforce the laws appropriately.\textsuperscript{42} The government does not provide adequate care for rape victims, and officials have reportedly encouraged rape victims to marry their rapists.\textsuperscript{43}

G. Recommendations

In line with recent recommendations from recent reviews by the CAT Committee, the Human Rights Committee, ESCR Committee, we ask the Committee to call on the Government of Iraq to:

1. “Swiftly amend its legislation to guarantee adequate protection of women against violence, including by repealing the Criminal Code provisions establishing ‘honorable motives’ as a mitigating circumstance for murder and allowing for the exoneration of rapists who marry their victims, and by ensuring that all forms of violence against women, such as domestic violence and marital rape, are criminalized with appropriate penalties in all its territory.”\textsuperscript{44}

2. “Repeal the discriminatory legal exceptions to the minimum age of marriage for girls contained in the Personal Status Act (No. 188 (1959)).”\textsuperscript{45}

3. “[E]nsure strict adherence to the legal provision that sets the minimum age for marriage for both sexes at 18, provide for deterrent punishments for forced marriages and conduct widespread educational campaigns on the harmful effects of such practices.”\textsuperscript{46}

4. “Establish effective mechanisms for the investigation, prosecution and punishment of trafficking offenders and for the early identification of victims and develop support

\begin{itemize}
\item \textsuperscript{39} US Department of State, \textit{Trafficking in Persons Report 2019}, p. 248 (2019).
\item \textsuperscript{40} US Department of State, \textit{Trafficking in Persons Report 2019}, p. 248 (2019).
\item \textsuperscript{42} Finnish Immigration Service, \textit{Overview of the Status of Women Living Without a Safety Net in Iraq}, p. 28 (May 22, 2018).
\item \textsuperscript{43} US Department of State, \textit{Trafficking in Persons Report 2019}, p. 248 (2019).
\item \textsuperscript{44} UN Human Rights Committee, \textit{Concluding Observations on the Fifth Periodic Report of Iraq}, para. 26(b), UN doc. CCPR/C/IRQ/CO/5 (December 3, 2015); see also, UN Committee on the Elimination of Discrimination against Women, \textit{Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Iraq}, para. 26(b), UN Doc. CEDAW/C/IRQ/CO/4-6 (March 10, 2014), calling for the Iraqi government to “Repeal 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 such crimes.”
\item \textsuperscript{45} UN Committee on the Elimination of Discrimination against Women, \textit{Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Iraq}, para. 53(b), UN Doc. CEDAW/C/IRQ/CO/4-6 (March 10, 2014).
services for victims and measures for witness protection; systematically compile and analyse disaggregated data on trafficking in women and girls.”

5. Ensure that trafficking victims “receive full reparation and means of protection, including access to adequately resourced shelters. … [A]dopt the measures necessary to guarantee that victims […] are not punished for activities carried out as a result of having been subjected to trafficking.”

6. “Increase its awareness-raising activities on the unacceptability and negative effects of violence against women and on the resources and protections available to victims, initiate programmes for perpetrators of domestic violence to change their violent behaviour, and reinforce its training activities for State officials so that they can respond effectively to all forms of violence against women.”

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

A. The Government of Iraq’s Failure to Prosecute Sexual and Gender-Based Violence Committed by ISIL

Despite plentiful evidence, ISIL fighters have not been prosecuted for sexual and gender-based crimes committed in Iraq. Instead, ISIL fighters are charged under counter-terrorist laws and tried in domestic trials. The ensuing convictions are based on the accused ties to ISIL, rather than

47 UN Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Iraq, para. 32(b), UN Doc. CEDAW/C/IRQ/CO/4-6 (March 10, 2014).
49 UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Iraq, para. 26(c), UN Doc. CCPR/C/IRQ/CO/5 (December 3, 2015).
50 MADRE, CUNY Law School, OWFI and other supporting organizations documented these crimes committed by ISIL in an Article 15 Communication to the International Criminal Court. Human Rights and Gender Justice (HRGJ) Clinic, City University of New York (CUNY) Law School, MADRE & the Organization of Women’s Freedom in Iraq (OWFI), Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq, paras. 2, 55 (2017). The UN Refugee Agency has cited this documentation (UNHCR, International Protection Considerations with Regard to People Fleeing the Republic of Iraq (May, 2019)), and 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.
51 UN Secretary-General, Conflict-Related Sexual Violence, para. 25, UN Doc. S/2019/280 (March 29, 2019).
on the specific nature and type of crimes committed.\textsuperscript{53}

This low bar for mass conviction means that courts are not investigating these most egregious crimes, including gender-based crimes. In some cases, judicial authorities are also not distinguishing between perpetrators and victims,\textsuperscript{54} allowing some perpetrators to go free and sentencing some victims—including women forced into marriages with ISIL fighters—to death.\textsuperscript{55} Additionally, victims are often uninformed of when or where alleged perpetrators are being brought to trial, denying them the opportunity to participate.\textsuperscript{56} This low charging bar that has prevented a greater culling of evidentiary facts has resulted in mass conviction for ISIS fighters. However, it has allowed for the most egregious crimes to remain unexamined by the judiciary.

Iraqi civil society organizations and members of the international community are calling for transparent and fair trials that acknowledge SGBV crimes committed by ISIL and the impacts they have on victims.\textsuperscript{57} This call has been echoed in the UN Secretary-General’s recommendation in his 2018 annual report on conflict-related sexual violence.\textsuperscript{58} Civil society organizations have called upon the Iraqi government to pass the appropriate national laws that criminalize SGBV crimes,\textsuperscript{59} including the incorporation of international crimes into the national penal code.\textsuperscript{60} Slavery and the


\textsuperscript{54}This section discusses legal and judicial reforms necessary for accessing justice and therefore uses the legal term “victim” instead of “survivor” defined as a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered, and who may or may not still be alive.


\textsuperscript{56}Human Rights Watch, Flawed Justice: Accountability for ISIS Crimes in Iraq, p. 54 (December 2017).


\textsuperscript{58}The UN Secretary-General stated, “I call upon the Government [of Iraq] to ensure that offenses of sexual violence are prosecuted as standalone crimes, including in the context of terrorism trials, and that services, including shelters operated in collaboration with women’s civil society groups, are protected and scaled up as part of efforts to ensure the socioeconomic reintegration of women and children released from ISIL captivity and to refrain from recording prejudicial information on birth certificates.” UN Secretary-General, Report of the Secretary-General on Conflict-Related Sexual Violence, para. 46, UN Doc. S/2018/250 (April 16, 2018).


\textsuperscript{60}See generally, Institute for International Criminal Investigations, Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Guidance for Practitioners in Iraq, p. 15 (March 2018); FIDH & Kinyat Organization for Documentation, Iraq Sexual and Gender-Based Crimes against the Yazidi Community: The Role of ISIL Foreign Fighters, p. 41 (October 2018).
slave trade are enshrined as prohibitions recognized in the Iraqi constitution.\textsuperscript{61} They should be promulgated to become part of the arduous implementation of existing laws.

B. The Government of Iraq’s Failure to Hold ISIL Accountable for Sexual Slavery Crimes

Multiple UN treaty bodies have called for the Iraqi government to hold ISIL members and other armed actors accountable for SGBV crimes, including enslavement, and to ensure reparations for victims.\textsuperscript{62} In response to concerns from the international community, Iraqi judges and other relevant government actors have discussed pursuing accountability for enslavement, including the slave trade, committed by ISIL\textsuperscript{63} under Iraq’s anti-trafficking law.\textsuperscript{64} While it is commendable to hold ISIL members accountable for the slave trade and sexualized enslavement, the Iraqi anti-trafficking law is an improper and inadequate provision to redress such conduct. International legal experts have recognized that the anti-trafficking laws do not capture the breadth of wrongdoing that the crimes of the slave trade and slavery (enslavement) were designed to address. Anti-trafficking laws conflate the international crimes of the slave trade and slavery with the transnational crime of human trafficking. The legal mischaracterization may lead to ineffective justice because it fails to redress the entirety of harms that victims suffered from when enslaved.\textsuperscript{65}

Iraq’s anti-trafficking law defines the crime of “human trafficking” as “recruiting, transporting, housing, or receiving individuals by force, threat to use force … in order to sell and exploit the trafficked individuals by means of … sexual abuse, … enslavement…”\textsuperscript{66} One of the key legal


\textsuperscript{65} See, Cardozo Law Institute in Holocaust and Human Rights, Memo on comments to the United Nations Crimes against Humanity (CAH) Treaty draft concerning enslavement and related crimes (November 30, 2018) (on file with MADRE).

\textsuperscript{66} Law No. 28 of 2012, Combating Trafficking in Persons Art. 1 (First) (Iraq) that reads as: “First: For purposes of this law, the term “Human Trafficking” shall indicate recruiting, transporting, housing, or receiving individuals by force, threat to use force, or other means, including by coercion, kidnapping, fraud, deception, misuse of power, exchange of money, or privileges to an influential person in order to sell and exploit the trafficked individuals by means of prostitution, sexual abuse, unpaid labor, forced labor, enslavement, begging, trading of human organs, medical experimentation, or by other means.”
elements necessary to prove that the crime of human trafficking has been committed is that the alleged perpetrator must have trafficked the victim by using some of form of coercion or fraud. While consent is not a permissible defense to human trafficking, investigative judges do question a victim about her state of mind at the time the crime was committed.

Such questions of consent, coercion or fraud are not pertinent to establish the crimes of the slave trade and slavery. In reality, they are legally irrelevant. The legal requirements of the slave trade and slavery focus on the perpetrator's intent and do not inquire about the mental state of the victims. In court, inquiries about the mental state or coercive circumstance could be psychologically harmful and inhibit victims from providing meaningful testimony about how perpetrators reduced or traded them into slavery and about abuse endured during enslavement. Some victims will be excluded altogether.

Furthermore, while the anti-trafficking law lists enslavement and sexual abuse as forms of exploitation resulting from human trafficking, the law itself does not criminalize enslavement or sexual abuse. These inadequacies in the anti-trafficking law create an impunity gap that will limit access to justice and recognition of slavery crimes in Iraq. Persons who were not enslaved through trafficking but by other means may be excluded altogether from accessing justice under the anti-trafficking law.

While Iraq’s Constitution prohibits slavery and the slave trade, and Iraqi law does recognize universal jurisdiction for trading in women, children, slave when committed outside of Iraq, there is no penal code provision criminalizing slavery. Iraqi civil society organizations are thus calling for a new legislation on enslavement to ensure that the crimes of the slave trade, and slavery, including its sexual manifestation are explicitly recognized in the national penal code. Organizations are calling for new laws on enslavement, that cover the slave trade and slavery, as opposed to the specific crime of sexual slavery. This is to ensure that all gendered experiences of slavery, sexual and otherwise experienced by victims are adequately captured in transitional justice processes and are placed in the historical record.

A law solely on sexual slavery could limit the examination of the range of gender-based violence experienced by enslaved persons. Experiences of enslavement are inherently gendered and the

67 Law No. 28 of 2012, Combating Trafficking in Persons Art. 10 (Iraq) that reads as: “Consent by a victim to human trafficking shall not be accepted as a defense.”
68 Interview with Iraqi judge who addresses trafficking crimes (September 16, 2019) (on file with MADRE).
70 Iraq Penal Code section 4, art. 13 that governs universal jurisdiction, prohibits acts of trading women, children or slaves and can pursue in justice anyone who has committed those acts prior to entering the territory of Iraq. Section 4, Article 13 Universal Jurisdiction reads: “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.” Emphasis added), https://www.refworld.org/docid/452524304.html.
violence that enslaved women face goes beyond specific acts of sexual assault. For example, in addition to sexual violence, women and girls held in sexual slavery by ISIS were forced to perform various humiliating acts for their owners, strip naked, forcibly consume drugs to hasten physical maturation, undergo forced physical examinations, and experience the trauma and humiliation of being sold and re-sold at slave trading posts, to name a few. These crimes on the slave trade and slavery are gendered experiences that must also be recognized and accounted for.

Furthermore, lack of an adequate law would also lead to impunity for the range of perpetrators involved in the slave trade, such as: 1) the organizers of the slave trading markets; 2) the administrators of the registration and holding centres; and 3) the drafters of the manifesto and procedural manual for ISIL fighters on the treatment and disposal of the “sabaya” slaves. These potential accused escape liability for their culpable acts of the slave trade and slavery under the anti-trafficking law or under a law that only criminalizes sexual slavery and ignores the entirety of the legal safeguard of an enslavement law.

To address this gap in accountability, Iraq should pass a law on enslavement following the principles contained in the Slavery Convention of 1926 and its Supplementary Convention that prohibits and defines enslavement as including slavery, the slave trade, as well as other practices around slavery. Such a law would more fully align the Iraqi constitutional precepts concerning slavery and the slave trade and the Article 13 of the national criminal code proscription of trade in slaves with the penal codes jurisdiction over crimes committed in Iraq. Such legislation would close the impunity gap that Iraq’s anti-trafficking law leaves open and would account for both gendered and sexual experiences of enslaved persons.

C. Recommendations

In line with recent recommendations from recent reviews by the CAT Committee, and the Human Rights Committee, and the CRC Committee, we ask the Committee to call on the Government of Iraq to:


1. “Eliminate the impunity enjoyed by the perpetrators of acts of sexual violence [including sexual slavery] in the context of the armed conflict…” In this vein, the Government should enact legislation to criminalize enslavement in accordance with international standards and the Slavery Convention of 1926 and its Supplementary Convention.

2. Ensure that “all 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.” This should include ensuring that domestic trials are conducted under international supervision.

3. Ensure that women and girls who have fled ISIL’s “pattern of sexual violence, slavery, abduction and human trafficking … have access to shelter, medical and psychological care and rehabilitation and public services, and are able to access such services without discrimination on the basis of gender or other status.”

III. Denial of Access to Safe Shelter for Persons Fleeing Domestic Violence Including “Honor” Killings (Articles 2, 3, 5, & 6)

Despite repeated calls for policy change from international human rights treaty bodies in central and southern Iraq, it remains against public policy for Iraqi NGOs to provide shelter to women escaping domestic violence, including attempted “honor” killings, or other forms of gender-based violence. In the aftermath of the ISIL conflict and in the absence of adequate government services, local Iraqi NGOs are at the forefront of providing necessary services to protect and heal victims. Even before ISIL’s invasion, Iraqi NGOs and women’s rights defenders seeking to assist women and girls encountered regular harassment, arbitrary surveillance, and warrantless searches. Many women’s human rights organizations, especially those who shelter women fleeing violence, are forced to operate illegally and clandestinely, and are cautious about publicizing their services, making it difficult for victims to find them.

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76 UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Iraq, para. 20(a), UN Doc. CCPR/C/IRQ/CO/5 (December 3, 2015); See also, UN Committee against Torture, Concluding Observations on the Initial Report of Iraq, para. 13, UN Doc. CAT/C/IRQ/CO/1 (September 7, 2015), calling for the Government to “conduct prompt, impartial and thorough inquiries; try the perpetrators of such acts [including slavery] and, if they are found guilty, sentence them to punishment commensurate with the gravity of their acts.”
Law of 2012 on Combating Trafficking in Persons states that the Ministry of Labour and Social Affairs should create shelters to assist victims of human trafficking and exploitation. The Iraq National Action Plan for the Implementation of the UN Security Council Resolution 1325 Women, Peace and Security (2014-2018) also calls for the creation of shelter for women escaping violence, stating that the Government of Iraq should create an “[a]mendment of the Act of the Federal Ministry of Labour on shelters, taking the example of Law 2/2011 in [Kurdistan].” The plan calls for the establishment of “shelters and safe spaces for psychosocial support and free legal services for women victims of violence in accordance with international standards,” with the “expected result” that “women will receive better services by NGOs and institutions they meet.”

However, government officials have interpreted the policies to mean that only the government may provide shelter. In practice, the government has criminalized NGO-run shelters, through fines, shelter raids, and arrests of service providers. If women are found housed in a privately-run shelter, police may send them back to their families, from whom they are fleeing in the first place. Police harassment of such facilities not only puts staff and residents at risk, but it forces them to routinely relocate, avoiding unwanted attention from neighbours who have on occasion mistaken safe houses for brothels. This type of police abuse can leave women in hiding unprotected from family members who track them down for escaping threats of “honor” killings.

The lack of legal protection also puts shelter staff and residents at risk of armed actor violence. On October 28, 2017, a group of about 50 armed men raided the headquarters OWFI, an Iraqi NGO that provides shelter to victims of sexual and gender-based violence, in Al Saadoon in Baghdad. After searching the headquarters the men kidnapped a member of the OWFI staff and held him for ransom, forcing OWFI to negotiate for his release. The police have not investigated the incident, maintaining that NGOs do not have permission to run shelters in Iraq.

A. Response by UN Treaty Bodies on the Lack of Access to Shelter

In the summer of 2015, Yanar Mohammed of OWFI, testified to the UN Committee against Torture about dangers posed by the anti-shelter policy. The Committee against Torture has found that “the absence of shelters can exacerbate the risk of torture and may violate a state’s obligation

to protect and prevent against foreseeable torture.” However, the Committee has always ruled that it is within a government’s discretion to determine how to provide shelters. In response to Ms. Mohammed’s testimony, the CAT Committee made an unprecedented decision, calling on the Iraqi government to legally permit privately run shelters. The Human Rights Committee followed suit, expressing concern about the Iraqi government’s prohibition of NGO-run shelters for gender-based violence victims, and calling on the Iraqi government to facilitate access to NGO-run shelters.

In 2015, MADRE and OWFI submitted information on the shelter situation in Iraq to the ESCR Committee. When questioned by the Committee about the anti-shelter policy, Iraqi government delegates answered that OWFI is helping to meet the needs of survivors in central and southern Iraq. Officials explained that this local NGO is taking measures to address the rise in violence against women by providing comprehensive services, including shelter. Thus, in international statements, officials pass off to Iraqi NGOs their obligation to ensure shelter for survivors, while on the ground, they harass and hamper local shelter-providing organizations. The government chose not to respond to questions about the anti-shelter policy or its consequences.

In 2016, after briefing members of the Informal Experts Group of the UN Security Council, OWFI was invited by the UNAMI to provide input on a draft law on domestic violence. In late December 2016, the Permanent Representatives of Spain and the United Kingdom Missions to the United Nations, co-chairs of the Expert Group at the time, supported the adoption of the law with OWFI’s proposed amendments in a letter to the UN Secretary-General. Following this, in June 2017, Ms. 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

87 UN Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Iraq, paras. 25, 26(a), UN Doc. CCPR/C/IRQ/CO/5 (December 3, 2015). The anti-shelter policy was also raised to the Human Rights Committee during their review of Iraq by MADRE and OWFI. See, HRGJ Clinic, MADRE, OWFI et al., Seeking Accountability and Demanding Change: A Report on Women’s Human Rights Violations in Iraq in Response to the Fifth Periodic Report of the Republic of Iraq (October 2015).
90 UN Committee on Economic, Social and Cultural Rights, Summary Record of the 63rd Meeting, para. 12, UN Doc. E/C.12/2015/SR.63 (October 2, 2015).
91 UN Security Council, Letter Dated 22 December 2016 from the Permanent Representatives of Spain and the United Kingdom of Great Britain and Northern Ireland to the United Nations Addressed to the Secretary-General, UN Doc. S/2016/1104 (December 27, 2016), expressing the need to move forward with the pending draft law, including the provision of NGO shelters.
Lise Grande, then-Deputy Head of UNAMI, brought attention to the lack of legal coverage for NGO-run shelters, noting that it leaves survivors of sexual and gender-based violence vulnerable to further violence and without access to vital services. She reiterated UNAMI’s commitment to supporting the adoption of the draft Anti-Domestic Violence Law with the amendment on locally run shelters.

**B. Iraq’s Family Violence Protection Law**

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. In 2016, after UNAMI invited OWFI to propose amendments to the draft law, OWFI recommended adding a phrase to the law that would clarify that non-governmental organizations are authorized to operate shelters to all those in need, not only women, but also the elderly, disabled persons, and families escaping violence. The draft law, with OWFI’s proposed amendments, is currently still pending in the Iraqi parliament’s Legal Committee. If this law is passed with this amendment, the Iraqi government will have taken a commendable step in supporting vulnerable communities fleeing violence by increasing access to life-saving shelter and services.

**C. Government of Iraq’s Response**

The Government of Iraq has regularly claimed to have operated women’s shelters for some years, though these shelters have largely sat vacant because of their policy to inform families of the whereabouts of the women seeking shelter. Although a government-sponsored shelter for victims of trafficking opened in Baghdad, this is insufficient to provide for all of the women and girls who need assistance. Only seven women reportedly accessed the shelter in 2018.

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In 2018, the Iraqi government, in collaboration with UN Population Fund (UNFPA), opened a shelter in Baghdad.\textsuperscript{100} However, the shelter does not provide adequate protection for women fleeing attempted “honor” killings and other forms of domestic violence. In order for a woman escaping violence to be admitted to the shelter, the victim must provide a report from the Ministry of Health (if she has any signs of violence), and a police report about the incident.\textsuperscript{101} The case is then referred to a judge. Some women who stayed in the government’s shelter reported to women’s human rights advocates that the judge in their cases insisted on calling their families and reporting their whereabouts.\textsuperscript{102} This process jeopardizes women’s safety by exposing them to retribution and to extra-judicial means of resolution by the victim’s family, such as being forced to marry the perpetrator or being subject to “honor” killings.

In the Kurdistan region local NGOs have been permitted to run and maintain shelters for women fleeing violence. In 2011, the Kurdish Regional Government (KRG) passed Domestic Law No. 8, the Law against Domestic Violence in the Kurdistan Region of Iraq, which calls for the creation of women’s shelters.\textsuperscript{103} While the law does not explicitly allow for NGOs to run shelters, it provided space for collaboration between government and civil society and led to the creation of some shelters—although not enough to meet current needs.

D. Recommendations

In line with recent recommendations from recent reviews by the CAT Committee, the Human Rights Committee, ESCR Committee, we ask the Committee to call on the Government of Iraq to:

1. Ensure better protection and appropriate care for victims of gender-based violence, “including access to safe houses, State-run and private shelters, identity documents without prior authorization of a male family member, medical care and psychological support;”\textsuperscript{104}

2. “Increase cooperation with non-governmental organizations working to protect women and girls from violence throughout the country, and ensure that such organizations are protected from all forms of harassment and violence.”\textsuperscript{105}

\textsuperscript{100} UNFPA, \textit{Giving Women a Second Chance: Inauguration of the First Shelter for GBV Survivors in Baghdad} (March 9, 2018) and Government of Iraq, \textit{Seventh Periodic Report Submitted by Iraq under Article 18 of the Convention, Due in 2018}, para. 73, UN Doc. CEDAW/C/IRQ/7 (2018).


\textsuperscript{102} Interview with anonymous Iraqi women’s advocate (February 4, 2019) (on file with MADRE).

\textsuperscript{103} Law No. 8, the \textit{Act of Combatting Domestic Violence in Kurdistan Region-Iraq}, Article 3(2) (2011).


3. “Enact comprehensive legislation to combat domestic and gender-based violence, including a law permitting privately run shelters.” The government should do this by adopting the pending Family Violence Protection Law with the amendment clarifying that NGOs may provide shelter for all vulnerable groups, including women, the elderly, disabled persons, and families fleeing violence.

4. 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.”

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

A Civil Status Identification Document (ID), a mandatory document for citizens in Iraq, is necessary to access basic public services, including healthcare, employment, and education. An Iraqi woman can only obtain a Civil Status ID if a male relative vouches for her. Women fleeing gender-based or conflict-related violence without legal identification documents face great challenges in their freedom of movement, ability to register for residency permits—which are required to rent housing or secure employment—and ability to claim civil status rights, including birth certificates for children. Many women lost their civil status ID, either while fleeing the conflict or while held captive by ISIL. Many women are unable to obtain basic services because they lack legal identification. Internally displaced women are often unable to secure employment, and receive no financial assistance from the state due to a lack of legal identification documents.

When a male relative has been arrested on suspicion of having perceived ties to ISIL or been detained under Iraq’s Anti-Terrorism Law, women family members are routinely denied legal identification papers and will not receive a housing card in their name. Consequently, women are unable to register at the Ministry of Migration and Displacement, required for documentation and housing. Security officers are also reportedly denying relatives of suspected ISIL members

106 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)
109 OHCHR & UNAMI, A Call for Accountability and Protection: Yezidi Survivors of Atrocities Committed by ISIL, p. 9 (August 2016).
112 Interview with Iraqi lawyers, Baghdad, Iraq (November 4-7, 2018) (on file with MADRE, names omitted for safety reasons). See also, Human Rights Watch, Iraq: Families of Alleged ISIS Members Denied IDs (February 25, 2018).
clearance to obtain legal identification documents. In order to obtain a birth certificate in Iraq, parents of the child must present proof of their marital status, which is often not possible forwives of ISIL fighters since they do not have documented proof or would face discrimination because of their affiliation. Civil society organizations worry that the legal impairments placed on women and children are breeding another group of people vulnerable to illegal armed group recruitment and other security risks.

Iraq’s Nationality law limits a woman’s ability to confer nationality to a child born outside of Iraq, and a mother is unable to pass nationality to her child on equal footing with an Iraqi father. This makes it difficult for women to register their children born in areas that were under ISIL control, where the father is dead or missing, or in cases of rape, where the identity of the father is unknown. Children born out of sexual violence by ISIL, and those born outside of Iraq in ISIL territory have been rendered stateless because they have no proof of their legal identity.

The restrictions that prevent Iraqi women from obtaining legal identification preclude their ability to work or enrol in any educational institutions for training or other programs. A single woman without legal identification documents and without a death certificate for her husband is unable to remarry, inherit any of her husband’s belongings, and claim her husband’s pension. If she has any children, she is unable to register them and, in certain circumstances, pass on her nationality to them. Undocumented children are unable to attend school. Until Iraq amends its laws and regulations, many women and girls will remain stateless and more vulnerable to violence, exploitation, and discrimination.

A. Recommendations

In line with recent recommendations from recent reviews by the CAT Committee, the Human Rights Committee, ESCR Committee, we ask the Committee to call on the Government of Iraq to:

115 Interview with Iraqi women’s organizations representatives, Erbil, Iraq, (November 4-7, 2018) (on file with MADRE; names omitted for safety reasons).
118 Interview with Iraqi women’s organizations representatives, Erbil, Iraq (November 4-7, 2018) (on file with MADRE, names omitted for safety reasons).
1. “[A] mend the discriminatory provisions of Act No. 26 (2006), namely articles 4, 7 and 11, in order to ensure that women and men enjoy equal rights to acquire, transfer, retain and change their nationality…”  

2. “Ensure that children from non-registered marriages are issued identification, and make legal amendments for the registration of every voluntary marriage” and that “the right of children to access basic services, such as education and medical care, be made independent of registration.”

3. Provide “identity documents without prior authorization of a male family member” to victims of gender-based violence, and guarantee conflict-affected women and girls’ equal rights to obtain documents necessary for the exercise of their legal rights and to have such documentation issued in their own names.

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

The Government of Iraq does not collect statistical information on people with disabilities. However, the World Health Organization has estimated that there are about two million in Iraq. Ongoing conflict and violence has disproportionately affected people with disabilities in Iraq, and the lack of adequate legislation protecting their rights, as well as the lack of basic medical services available for them increases their vulnerability. Violence, landmines, harmful toxins, and explosive remnants of the conflict continue to increase the number of people with disabilities.

122 UN Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Iraq, para. 37, UN Doc. CEDAW/C/IRQ/CO/4-6 (March 10, 2014).
123 UN Committee on the Rights of the Child, Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq, UN Doc. CRC/C/IRQ/CO/2-4 at para. 32(b), 33 (March 3, 2015).
124 UN Committee against Torture, Concluding observations on the Initial Report of Iraq, para. 24(b), UN Doc. CAT/C/IRQ/CO/1 (September 7, 2015).
125 UN CEDAW Committee, General Recommendation No. 30 on Women in Conflict Prevention, conflict and Post-Conflict Situation, para. 61 (c), UN Doc. CEDAW/C/GC/30 (October 18, 2013), stating: “The Committee recommends that State parties: (c) Guarantee conflict-affected women and girls equal rights to obtain documents necessary for the exercise of their legal rights and the right to have such documentation issued in their own names, and ensure the prompt issuance or replacement of documents without imposing unreasonable conditions, such as requiring displaced women and girls to return to their area of original residence to obtain documents.”
126 UNAMI & OHCHR, Report on the Rights of Persons with Disabilities in Iraq, p. 3 (December 2016); Angela Boskovich, Under Strain from Protracted Conflict, Displacement, and a Budgetary Crisis, Iraq’s Health System Is Struggling to Care for the Physically Disabled, Carnegie Endowment for International Peace (December 20, 2017) (citing the lack of statistical information on persons with disabilities in Iraq).
in Iraq.\textsuperscript{130} The ESCR Committee in 2015 expressed concern about persons with disabilities’ lack of adequate access to education and Iraq’s “lack of disaggregated statistics on employment, including for persons with disabilities.”\textsuperscript{131} Disability rights organizations in Iraq note that the government has failed to adequately implement Law 38 (2013) on people with disabilities.\textsuperscript{132} In addition, the definition of disabled persons under Law 38 takes a care-based approach rather than a rights-based approach, which is not in line with the definition under the Convention on the Rights of Persons with Disabilities,\textsuperscript{133} ratified by Iraq in 2013.\textsuperscript{134}

Inadequate government planning and inaccessible transport leave many people with disabilities abandoned during evacuations, and shelters and camps are often inaccessible for them. People with disabilities also experience blatant discrimination, including refusal of services, by shelter and displacement camp staff.\textsuperscript{135}

Women with disabilities face compounding discrimination on the basis of gender and disability.\textsuperscript{136} Iraqi NGOs assert that women with disabilities in Iraq experience greater discrimination than their male counterparts: they are less likely to obtain work and education opportunities than men with disabilities.\textsuperscript{137} The observance of traditional gender roles in Iraq means that women with disabilities often lack freedom of movement,\textsuperscript{138} and people ashamed of women with disabilities in their families are known to prevent them from leaving the house, even for treatment.\textsuperscript{139} Women and girls with disabilities in Iraq are also more likely to experience physical abuse and exploitation.\textsuperscript{140} While disabled persons are entitled to cash benefits through Law No. 38 and the 2014 Social Protection Act, the requirements to claim benefits, including possession of certain documents, often preclude women with disabilities from accessing them. Disabled women and girls are not entitled to social security benefits if they are married or if their father is alive.\textsuperscript{141}

\begin{itemize}
\item \textsuperscript{130} UNAMI & OHCHR, \textit{Report on the Rights of Persons with Disabilities in Iraq}, p. 5 (December 2016).
\item \textsuperscript{134} UN Treaty Collection, \textit{Status of Ratifications of the Convention on the Rights of Persons with Disabilities}.
\item \textsuperscript{137} UNAMI & OHCHR, \textit{Report on the Rights of Persons with Disabilities in Iraq}, p. 9 (December 2016).
\item \textsuperscript{138} UNAMI & OHCHR, \textit{Report on the Rights of Persons with Disabilities in Iraq}, p. 9 (December 2016).
\item \textsuperscript{139} Iraqi Alliance of Disability, \textit{The Parallel Report for the Government’s Report on the Convention on the Rights of Persons with Disability (CRPD)}, p. 9 (January 2018).
\item \textsuperscript{141} Minority Rights Group, \textit{Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq}, para. 25 (2018).
\end{itemize}
A. Recommendations

In line with recent recommendations from recent reviews by the CAT Committee, the Human Rights Committee, ESCR Committee, we ask the Committee to call on the Government of Iraq to:

1. “Review its legislation, including through the on-going review of Act No. 38 (2013) [on the Care of Persons with Disabilities and Special Needs], and bring it into line with the human rights model of disability enshrined in the Convention142 including by ensuring that “employment quotas for persons with disabilities in both the public and the private sector are effectively enforced.”143 To ensure women and girls with disabilities can obtain necessary benefits, including under the Social Protection Law, it should also eliminate discriminatory provisions and onerous document requirements.144

2. “Take all measures necessary to reintegrate children affected by the armed conflict into the educational system” and “ensure that internally displaced children and children with disabilities enjoy equal access to education.”145

3. “Develop and adopt affirmative measures aimed at the empowerment and full inclusion of women and girls with disabilities in all spheres of life”146 by addressing “outstanding issues, [including] full legal capacity for persons with disabilities, sign language – not only in courts but everywhere, and budgetary allocations for inclusive education and for employment.”147

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144 UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Fourth Periodic Report of Iraq, para. 16, UN Doc. E/C.12/IRQ/CO/4 (October 27, 2015), calling on the Iraqi government to increase social protection spending in order to protect economic rights for people from marginalized and disadvantaged groups.
146 UN Committee on the Rights of Persons with Disabilities, Concluding observations on the Initial Report of Iraq - I, para.14(c), UN Doc. CRPD/C/IRQ/CO/1 (September 19, 2019).
VI. Discrimination Against Afro-Descendant Iraqi Women (Articles 3-4, 8, & 10-11)

Afro-descendant Iraqis, also referred to as Afro-Iraqis, make up about 1.5 to 2 million of Iraq’s population. Although the 2005 Iraqi Constitution stipulates that all Iraqis are equal, and prohibits racism and ethnic or religious hatred, Afro-Iraqis continue to be excluded from social, economic and political life in Iraq. Casual references to Afro-Iraqis as ‘abd’ (meaning ‘slave’) and ‘aswad’ (meaning ‘Black’) are reflective of a social status that derives from a systematic pattern of social discrimination. The Iraqi government has not implemented any educational initiatives to address stigma against persons of African descent in Iraq and has yet to implement legislation to prevent racial discrimination or protect minorities from marginalization. A striking lack of statistical data on Afro-Iraqis, including women, also reflects the government’s neglect of the Afro-Iraqi community. Afro-Iraqi women face the combined impact of gender and racial discrimination. They face high levels of human rights violations and Afro-Iraqi women human rights defenders face grave threats to their safety and wellbeing.

149 Iraq Constitution 2005, Article 14, “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect belief or opinion, or economic or social status.”
150 Iraq Constitution 2005, Article 7, “Any entity or program that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (takfir) or ethnic cleanings, especially the Saddamist Ba’ath in Iraq and its symbols, under any name whatsoever, shall be prohibited. Such entities may not be part of political pluralism in Iraq. This shall be regulated by law.”
152 Interview with Afro-Iraqi women’s rights activist, Baghdad, Iraq (November 4-7, 2018) (on file with MADRE, name omitted for safety reasons).
153 Interview with Afro-Iraqi women’s rights activist, Baghdad, Iraq (November 12-15, 2018) (on file with MADRE, name omitted for safety reasons). Though the draft law to “Protect Diversity and Combat Discrimination” was submitted for its first reading in October 2016, it 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).
155 Interview with Afro-Iraqi women’s rights activist, Baghdad, Iraq (November 12-15, 2018) (on file with MADRE, name omitted for safety reasons).
156 Interview with Iraqi women’s organization representative, Erbil, Iraq (November 12-15, 2018) (on file with MADRE, name omitted for safety reasons).
A. Lack of Adequate Living Conditions, Education, and Employment for Afro-Iraqi Women

Systemic discrimination has resulted in high poverty rates among Afro-Iraqis, many of whom live in marginalized areas where they risk eviction, and lack access to clean water, proper sewage facilities, and adequate electricity.\footnote{Minority Rights Group, Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq, para. 28 (2018).} Inadequate access to employment, housing, health services, a regular income, and education are among challenges Iraqi women of African descent face.\footnote{UN 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 (January 11, 2019).} Afro-Iraqi women experience higher levels of unemployment compared to Iraqi women overall,\footnote{Iraqi High Commission for Human Rights (IHCHR), Report on Iraq’s Compliance with the International Convention on the Elimination of All Forms of Racial Discrimination submitted to the UN Committee on the Elimination of Racial Discrimination (CERD), p. 18 (2018); See also UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Fourth Periodic Report of Iraq, para. 31, UN Doc. E/C.12/IRQ/CO/4 (October 27, 2015).} and when they do secure employment, they are typically only able to find menial jobs like domestic work.\footnote{Interview with Afro-Iraqi women’s rights activist, Baghdad, Iraq (November 12-15, 2018) (on file with MADRE, name omitted for safety reasons).}

The discrimination Afro-Iraqi children face in school, when they are able to enrol, causes some to drop out,\footnote{Interview with Afro-Iraqi women’s rights activist, Baghdad, Iraq (November 12-15, 2018) (on file with MADRE, name omitted for safety reasons); See also Australian Government Department of Foreign Affairs and Trade, DFAT Country Information Report: Iraq, para. 3.9 (October 9, 2018).} and contributes to low levels of literacy and poverty among Afro-Iraqis. As a result, a professional Afro-Iraqi class has been unable to form.

High illiteracy rates among Afro-Iraqi women have also translated into higher rates of gender-based violence against them.\footnote{Minority Rights Group, Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) - Review of the Periodic Report of Iraq, para. 28 (2018).} Many Afro-Iraqi women are unaware of their rights and where they can seek help, should they face violence and abuse. In 2013, community leaders estimated that domestic violence affects up to 60 percent of Afro-Iraqi women.\footnote{Institute for International Law and Human Rights, Iraq’s Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights, pp. 76 (May 2013).} Incidents of domestic violence, however, are under-reported.\footnote{Institute for International Law and Human Rights, Iraq’s Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights, pp. 76 (May 2013).}
B. Lack of Access to Political Participation for Afro-Iraqi Women

Afro-Iraqis lack adequate political representation and participation. They do not have their own quota in Iraq’s Parliament, unlike other ethnic and religious groups, and have been excluded from the Council of Representatives. There has never been an Iraqi of African descent elected to the Council, and Afro-Iraqi women are not included in government, peace implementation, or other decision-making roles. Human rights defenders call for fixed representation in government, as for other minorities, and increased security measures.

There is a clear need for an anti-discrimination law and mandatory education on ethnic minorities, including Afro-Iraqis. A draft diversity protection and anti-discrimination law was endorsed by members of the Iraqi Parliament, but remains stalled with the human rights committee of the Council of Representatives. UNAMI has urged the Government of Iraq to adopt the draft Law on the Protection of the Rights of Religious and Ethnic Minority Groups, and the draft Law on the Protection of Diversity and Prohibition of Discrimination. These two laws aim to eliminate discrimination based on race, color, sex, language, religion, political or other opinion, nation or social origin. UNAMI also recommends the Ministry of Education act to eliminate discrimination in education.

C. Recommendations

In line with recent recommendations from recent reviews by the CAT Committee, the Human Rights Committee, ESCR Committee, we ask the Committee to call on the Government of Iraq to:

1. “[I]ntensify its efforts to implement effectively its employment policy, making available work opportunities, in particular for the most disadvantaged and marginalized individuals and groups” including Afro-descendants.

2. “[A]dopt a comprehensive anti-discrimination law to prevent and combat discrimination in all areas of life and … include in such legislation, as well as in the Labour Code, a definition of direct and indirect discrimination on all prohibited grounds” In this vein, the Government of Iraq should immediately pass the draft Law on the Protection of the

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3. “[R]edouble its efforts to effectively combat the structural racial discrimination, the stigmatization and the marginalization against people of African descent, including by taking special measures to reduce the poverty and social exclusion of people of African descent and increasing their access to adequate living conditions, education, health care, housing and employment.”  

4. “Collect … statistics on the ethnic and ethno-religious composition of its population, including migrants and refugees, as well as economic and social indicators disaggregated by sex, gender, ethnicity, disability and age.”

5. “[I]ncrease its efforts to raise public awareness of the importance of ethnic, ethno-religious and cultural diversity and the fight against racial discrimination, and to integrate these into the school curriculum” to ensure that negative prejudices and stereotypes in school curricula are eradicated and replaced with education on ethnic minority groups, including Afro-Iraqi women.

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172 UN Committee on the Elimination of Racial Discrimination, Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq, para. 28, UN Doc. CERD/C/IRQ/CO/22-25 (January 11, 2019).
173 UN Committee on the Elimination of Racial Discrimination, Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq, para. 6, UN Doc. CERD/C/IRQ/CO/22-25 (January 11, 2019).
174 UN Committee on the Elimination of Racial Discrimination, Concluding Observations on the Combined Twenty-Second to Twenty-Fifth Periodic Reports of Iraq, para. 40, UN Doc. CERD/C/IRQ/CO/22-25 (January 11, 2019).