

Republic of Iraq

Submission to the United Nations Universal Periodic Review

20th Session of the Working Group on the UPR

Human Rights Council

[October 27 – November 7, 2014]

Violence and Discrimination against Persons based on their Actual or Perceived Sexual Orientation and Gender Identity in Iraq

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Introduction

1. This report is submitted by the International Gay and Lesbian Human Rights Commission (IGLHRC) (an ECOSOC accredited NGO). It focuses on the status of the rights of marginalized and vulnerable people, including LGBTI Iraqis and members of the “emo”¹ subculture, suffering several forms of violence and discrimination in Iraq. The information in this report was gathered through personal interviews and meetings held during field visits to Iraq. It is supported by reports of news agencies, governments, local Iraqi non-governmental organizations (NGOs) and international human rights organizations.

I. Background and Context

2. Thousands of Iraqis today are at risk of violence and discrimination as a result of their actual or perceived sexual orientation, their gender identity, or nonconformist social behavior. They are deprived of their human rights, ostracized, and marginalized, and hundreds have been brutally murdered over the past decade without any apparent action on the part of the State to prevent violence, or to bring those responsible to justice. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) people are viewed by extreme fundamentalists as violating religious tenets. Militias citing religious motivation and vigilante groups wage systematic campaigns of discrimination, violence, torture, and killing of LGBTI persons with impunity. These campaigns

¹ According to a press release by the International Gay and Lesbian Human Rights Commission (IGLHRC), Human Rights Watch, and Amnesty International, “[i]n English, ‘emo’ is short for ‘emotional,’ referring to self-identified teens and young adults who listen to alternative rock music, often dress in black, close-fitting clothes, and cut their hair in unconventional ways. People perceived to be gay, lesbian, transgender or effeminate are particularly vulnerable.” “Iraq: Investigate ‘Emo’ Attacks,” 16 March 2012. Available online at: <http://www.iglhrc.org/cgi-bin/iowa/article/pressroom/pressrelease/1499.html>.

target young people who exhibit alternative forms of personal expression, as well as individuals who Iraqis refer to as emo.

3. This report documents various forms of discrimination and violence committed against Iraqis because of their actual or perceived sexual orientation and gender identity. It outlines discrimination against LGBTI people in the areas of law, access to justice and healthcare. The report also highlights systematic campaigns of threats and violence, as well as so-called honor killings, against LGBTI Iraqis and those considered to be emo.

II. Discrimination Committed against Persons on the Basis of Actual or Perceived Sexual Orientation and Gender Identity

4. Iraqi law prohibits discrimination on the basis of race, disability, or social status, but does not address discrimination on the basis of sexual orientation or gender identity. Under the law, those convicted of sodomy are treated as dangerous criminals, who cannot be beneficiaries of any amnesty or government pardon.

5. Iraq also has a vaguely worded clause under Article 409 of the Penal Code, which bans materials that “violate the public integrity or decency.”² This provision can be, and has been, used to criminalize publication or possession of materials that contain content on homosexuality. Through this provision, the authorities can criminalize a wide range of behavior, including any person who “produces, imports, publishes, possess, obtains or translates a book, printed or other written material, drawing, picture, film, symbol or other

² Iraq Penal Code ¶ 409 of 1969.

thing.”³ Because of the public perception of homosexuality in Iraqi society, we are concerned that the morality law will be used against those discussing LGBTI issues or advocating for LGBTI rights.

6. Discrimination against LGBTI individuals in Iraq extends beyond the law to everyday discrimination by law enforcement personnel. Gay men report frequent mistreatment by police including, “blackmail, torture, sexual abuse and theft.”⁴ Further, a joint report from the OHCHR and UNAMI Human Rights office described that Iraqi police and courts regularly consider the alleged sexual orientation of the victim of violence as a mitigating factor when assessing responsibility for alleged crimes.⁵ This abuse and overt discrimination has created a culture of distrust of police and the justice system as a whole by LGBTI people. Many cases go unreported as victims, or their families, fear that reporting attacks to authorities will result in further victimization or discrimination.⁶

7. A local Iraqi NGO has informed IGLHRC that LGBTI and emo individuals face severe discrimination in access to healthcare. Hospital and psychiatric clinic visits are often interrupted or terminated when doctors discover or suspect that patients are LGBTI, even in cases of dire medical need. Patients who manage to obtain treatment are frequently humiliated and stigmatized. Gay men face particular difficulties, as stigma attached to male homosexuality and its purported contagiousness causes many doctors to turn them away. Many doctors are also

³ *Id.*

⁴ Basim al-Shara, “Baghdad Gays Fear for Their Lives,” INSTITUTE FOR WAR & PEACE REPORTING (November 3, 2006) <http://iwpr.net/report-news/baghdad-gays-fear-their-lives> (last visited Jan. 28, 2013).

⁵ United Nations Assistance Mission for Iraq (UNAMI) Human Rights Report January to December, 2010, http://www.uniraq.org/index.php?option=com_k2&view=itemlist&layout=category&task=category&id=164&Itemid=650&lang=en.

⁶ United Nations Assistance Mission for Iraq (UNAMI) Human Rights Report January to June, 2013, http://www.uniraq.org/index.php?option=com_k2&view=itemlist&layout=category&task=category&id=164&Itemid=650&lang=en.

unwilling to address the medical needs of intersex patients, out of ignorance, or because there is much stigma attached to intersex status. Thus many LGBTI and emo individuals do not have access to healthcare services at public hospitals. Those able to pay can rely on private clinics, for exorbitant fees. Many LGBTI individuals do not have access to healthcare services at all.

8. The US Department of State report noted, “societal discrimination in employment, occupation, and housing based on sexual orientation, gender identity, and unconventional appearance was common.”⁷ And according to the U.S. Department of State, “information was not available regarding discrimination in access to education...although media reported that students were harassed at school for not adopting conventional clothing or hairstyles.”⁸

Presently, no significant efforts to counter this discrimination are being undertaken by the Iraqi government.

III. Violence Committed against Persons on the Basis of Actual or Perceived Sexual Orientation and Gender Identity

9. Political and cultural leaders often express publicly that LGBTI people, as well as members of the emo subculture, are to blame for social decay, and that homosexuality is an immoral behavior akin to stealing or lying. The social stigma thus created and maintained is used to justify attacks on LGBTI people. There have been several waves of cruel attacks against LGBTI people in Iraq over the past decade and investigation and prosecution by police remains limited, while violence and indifference remains prevalent.

⁷ US Department of State, “Iraq 2013 Human Rights Report,” 59 available at: <http://www.state.gov/documents/organization/220565.pdf>.

⁸ *Id.*

10. In 2006, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) issued a report stating that gay Iraqis were increasingly targeted for violence and death solely because of their sexual orientation.⁹ The May 1 – June 30, 2006 report of the United Nations Assistance Mission for Iraq (UNAMI) stated that since 2005, gay men and women had been increasingly targeted and extra-judicially executed by militias as well as “death squads.”¹⁰ The 2006 UNAMI report documented that from October 2005 to June 2006 at least twelve gay men were killed because of their sexual orientation.

11. The early months of 2009 marked another surge of violence against victims that appear to have been targeted because of their actual or perceived sexual orientation. Several men, thought to be gay, were abducted by police, interrogated, tortured and/or killed. In Sadr City, a low-income area of Baghdad, dozens of men were killed under suspicion of being gay.¹¹ Human rights organizations and press posited that a *fatwa* or ruling on religious law by Moqtada al-Sadr or other cleric had launched an organized campaign.¹²

12. In a widely-broadcast interview in 2009, Yanar Mohammad, executive director of the Organization for Women’s Freedom in Iraq (OWFI) and a prominent Iraqi human rights activist, told the UAE-based media network, Alarabiya, of a campaign of violence against Iraqi

⁹ “Iraq: IGLHRC Calls for Immediate Investigation into Reports of Gay Iraqis Targeted for Violence, Kidnappings and Murder,” INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION (April 20, 2006), <http://www.iglhrc.org/cgi-bin/iowa/article/pressroom/pressrelease/261.html> (last visited Jan. 28, 2013).

¹⁰ United Nations Assistance Mission for Iraq (UNAMI) Human Rights Report May 1-June 30, 2006, ¶ 16 accessed January 18, 2013, *available at* <http://unami.unmissions.org/LinkClick.aspx?fileticket=A6XvzkE9enU%3D&tabid=3174&language=en-US> (last visited Jan. 28, 2013).

¹¹ Timothy Williams, “Iraq’s Newly Open Gays Face Scorn and Murder,” NEW YORK TIMES (April 7, 2009), <http://www.nytimes.com/2009/04/08/world/middleeast/08gay.html>.

¹² Nizar Latif, “Iraqi ‘executioner’ defends killing of gay men,” THE NATIONAL, (May 2, 2009), <http://www.thenational.ae/news/world/middle-east/iraqi-executioner-defends-killing-of-gay-men> (last visited Jan. 28, 2013); Human Rights Watch, *supra* note 27.

homosexuals in which a very strong form of adhesive, known as “Iranian Gum,” was being used to fuse shut the anuses of homosexual men, leading directly to death. Some victims who sought life-saving treatment in hospitals were refused.¹³ Such heinous acts were incited by the invective of several Shiite clerics.¹⁴

13. A January 2011 report by UNAMI notes that high levels of violence and discrimination against individuals based on their actual or perceived sexual orientation, and impunity for such crimes, continued throughout 2010.¹⁵ It highlights reports by Ali Hilli, the pseudonym of a representative of the London-based Iraqi LGBTI organization, who reported on the raid of a safe house in Karbala by Iraqi police in June 2010, during which six occupants were violently beaten, arrested and kidnapped. According to Hilli, the six people arrested included three men, one woman and two transgender people. Two days later, one of the men abducted was found in a hospital with a throat wound. He reported that he had endured torture by the police.¹⁶ As of the date of the report, UNAMI had not been able to ascertain the whereabouts of the other five individuals.

14. Since 2012, young people perceived as members of the emo subculture, have been brutally murdered in Baghdad and other Iraqi cities. The wave of violence is believed to have begun in February 2012, when signs and fliers appeared in the Baghdad neighborhoods of Sadr City, al-Hababiya and Hay al-‘Amal that threatened specific individuals with “the wrath of god” unless they cropped their hair, gave up wearing “satanic clothing,” and “maintained complete

¹³ International Gay and Lesbian Human Rights Commission, *supra* note 10.

¹⁴ Timothy Williams, *supra* note 12..

¹⁵ United Nations Assistance Mission for Iraq (UNAMI) Human Rights Report January to December, 2011, http://www.uniraq.org/index.php?option=com_k2&view=itemlist&layout=category&task=category&id=164&Itemid=650&lang=en.

¹⁶ *Id.*

manhood.”¹⁷ The New York Times reported that immediately preceding the murders, Iraqi police were engaged in a street cleanup with the stated intent of getting “beggars and homosexuals off them.”¹⁸

15. In its annual report on human rights in Iraq, UNAMI addressed this wave of violence.¹⁹ UNAMI’s report states that the media pointed to conservative religious groups such as Al Mahdi (Mahdi Army) and Asa’ib Ahl Al-Haq as “responsible for up to 56 persons described as ‘emos’ ... reportedly killed in different parts of Iraq, especially in Baghdad and Babil.”²⁰ UNAMI indicates some media reports put the number of victims at 90, but was able to verify only 12 cases of those murders.

16. A local Iraqi NGO reports that targeted threats and killings of LGBTI Iraqis persisted in 2013. In June the organization told IGLHRC that nine men were murdered in the Al-Sadr City neighborhood because of their perceived sexual orientation. After investigating these deaths, the organization learned that a flyer, listing the names of targeted individuals, was hung on walls throughout Al-Sadr City around the time of the alleged killings, listing the nicknames and neighborhoods of listed individuals, accusing them of sodomy and inappropriate hairstyles.

17. Despite repeated threats and egregious violence, no state protection has been provided, nor have any investigations been launched into the actions of the perpetrators. In general, the Iraqi government has attempted to deny claims of abuse and murder of LGBTI and

¹⁷ “Iraq: Investigate ‘Emo’ Attacks,” INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION, (March 16, 2012), <http://www.iglhrc.org/cgi-bin/iowa/article/pressroom/pressrelease/1499.html>.

¹⁸ Timothy Williams, *supra* note 12.

¹⁹ United Nations Assistance Mission for Iraq (UNAMI) Human Rights Report January to June 2012,” <http://unami.unmissions.org/LinkClick.aspx?fileticket=vzOhTQpHHF4%3d&tabid=3174&language=en-US>.

²⁰ *Id.*

emo persons, and has gone as far as to flagrantly reject calls to uphold their human rights. For example, in 2009, during the Universal Periodic Review of Iraq in February 2010, “Iraq expressly and officially rejected calls by UN member states to act to protect persons on account of their sexual preferences...to investigate homophobic hate crimes and to bring perpetrators to justice.”²¹

18. Following the surge of emo killings in 2012, The Iraqi Interior Ministry issued an official statement dismissing reports about the violence by local activists as “fabricated” and “groundless.” Several media outlets published editorials characterizing the “emerging emo phenomenon,” as “Satanists, vampires, immoral, and un-Islamic.”²² After widespread international media coverage of the violence and intimidation against emos, the Ministry warned groups, who had portrayed themselves as “protectors for morals and religious traditions,” against engaging in “any conduct against people based on a fashion, dress or haircut.” Yet this statement also threatened “necessary legal actions against those who try to highlight [the violence] and build it out of proportion.”²³

19. In addition to targeted violence, members of Iraq’s LGBTI and emo communities remain at serious risk of so-called honor crimes, and especially so-called honor killings, as their conduct is perceived to be contrary to traditional mores and gender norms. During the wave of violence targeting suspected gay men in the spring of 2009, many media reports pointed to the possibility that some of the killings were carried out by family members and justified by reference to the family’s “honor.” An Iraqi police officer told The New York Times, “Our

²¹ UNAMI, *supra* note 16.

²² Yanar Mohammed, “Homophobic murders in Iraq” Organization of Women’s Freedom in Iraq (March 5, 2012).

²³ International Gay and Lesbian Human Rights Commission, *supra* note 18.

investigation has found that these incidents are being committed by relatives of the gays — not just because of the militias,” he said. “They are killing them because it is a shame on the family.”²⁴ According to the US Department of State in 2013 “honor killings remained a serious problem throughout all parts of the country.”²⁵

20. Arrests by Iraqi police of persons accused of so-called honor crimes are infrequent, and in the few cases where perpetrators are prosecuted, judges frequently hand down extremely lenient sentences, even for murder.²⁶ Many fear reporting suspicion or even the commission of a so-called honor crime because police do not adequately protect potential victims and judicial authorities do not effectively prosecute perpetrators.²⁷ A 2010 report of the Danish Immigration Service notes that “...male victims of honour disputes are much less likely than women to find assistance and protection from the police and/or from authorities as well as NGOs.”²⁸ According to the report, “...men who are under threat of honour crime...only have the option to flee the country.”²⁹ Likewise, Amnesty International reports that “Gay men face similar discrimination as women under the legislation that provides for lenient sentences for those committing crimes with an ‘honourable motive’.”³⁰

21. A report published in 2012 by the Implementation and Protection of Rights Unit at the Iraqi Ministry of Human Rights indicates that in 2011, the Supreme Judicial Council only made a

²⁴ Timothy Williams, *supra* note 12.

²⁵ US Department of State, *supra* note 8.

²⁶ Danish Immigration Service, “Honor Crimes against Men in Kurdistan Region of Iraq (KRI) and the Availability of Protection,” 23 March 2010, available at: <http://www.unhcr.org/refworld/country,,DIS,,IRQ,,4bd95eae2,0.html>.

²⁷ UNAMI, *supra* note 6.

²⁸ Danish Immigration Service, *supra* note 27.

²⁹ *Id.*

³⁰ Amnesty International, *Iraq: Civilians Under Fire*, April 2010, <http://www.amnesty.org/en/library/asset/MDE14/002/2010/en/c9dc5d8d-95fa-46e4-8671-cd9b99d0378c/mde140022010en.pdf>.

final decision in ten cases of so-called honor killings. These statistics emphasize how the law fails to safeguard victims and actually protects the perpetrators of honor killings.³¹

IV. Recommendations

22. We respectfully request that the Human Rights Council ask the Iraqi government to:

- Take meaningful steps to combat homophobia, transphobia and misconceptions regarding LGBTI and emo persons;
- Undertake legal and institutional reforms to ensure that all laws and policies promote equality and respect for all persons, without distinction on the basis of sexual orientation and gender identity;
- Ensure the accountability, according to law, of any person who advocates religious or other forms of hatred that constitutes incitement to discrimination, hostility or violence against persons based actual or perceived sexual orientation or gender identity;
- Implement statewide sensitivity training for police, medical professionals and members of the judiciary and educational programs for engaging with the LGBTI community that focus on eliminating stigmatization, humiliation, and discrimination of community members;
- Provide shelters for LGBTI and emo people fleeing violence, and community centers and healthcare service facilities to ensure the safety and security of these individuals;
- Eliminate “honor” as a mitigating circumstance in the prosecution and sentencing of violent offenses.

³¹ UNAMI, *supra* note 6.