

Sexual Exploitation of Children in Iraq

Submission

for the Universal Periodic Review of the human rights situation in Iraq

Submitted by

**Jiyan Foundation for Human Rights, Women's legal assistance organization
and ECPAT International**

Bangkok, Thailand on 28th March 2019

to the **Human Rights Council**

34th session (November 2019)

UPR third cycle 2017 – 2021



Jiyon Foundation for Human Rights

Contact: Mr. Bojan Gavrilovic
Address: Koenigin-Elisabeth-Str. 7, 14059 Berlin, Germany
Phone: +49 30 26 57 93 85
Email: info@jiyan-foundation.org
Website: www.jiyan-foundation.org

The Jiyon Foundation for Human Rights is a non-profit organization promoting the mental well-being, physical rehabilitation, and social reintegration of survivors of (sexual) violence, torture and trauma in Kurdistran-Iraq. Clients receive free-of-charge psychotherapeutic treatment, medical care, and socio-legal counselling. In addition, the Jiyon Foundation seeks to protect survivors of human rights violations and prevent future acts of abuse through professional training, human rights education, and public awareness-raising and political advocacy.



ECPAT International

Special consultative status

Executive Director: Mr. Robbert van den Berg
Address: 328/1 Phayathai Road, Ratchathewi, Bangkok 10400, Thailand
Phone: +66 2 215 3388
Email: info@ecpat.org
Website: www.ecpat.org

ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 29 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 109 network members operating in 96 countries.



Women's legal assistances organizations (WOLA)

Contact: Mrs. Shokhan Ahmed
Address: Iraqi sulaimanyah , bakhtiary 113qtr 16 house 11
Phone: +964 770 157 2173
Email: shokhanlawer@yahoo.com
Website: <http://www.wola-ngo.org>

Women's Legal Assistance Organization (WOLA) is a non-political and independent local NGO, established 2008, which is linked to a region-wide campaign against Female Genital Mutilation (FGM), to Women Centers in Suleymaniah and the surrounding areas, to a court watch programme of the local civil rights organization DHRD, and to the local bar association. The WOLA shall provide legal sources for a broad network of women's groups who fight gender-discrimination and lobby for a comprehensive equality of treatment and rights.

Justification for submission

1. The present submission is an update to review the progress that has been made by the Government of Iraq (GoI) to end sexual exploitation of children (SEC) and assess the level of implementation of the UPR recommendations on children's rights made in 2014.¹ Specific recommendations to end SEC in Iraq will be made. Recommendations made in this report are in line with the commitment made by the GoI to eliminate all forms of violence against children, including sexual abuse and exploitation with the adoption of the 2030 agenda for Sustainable Development in 2015.²
2. The content of this submission is based on work experiences and desk research of Jiyan Foundation for Human Rights, Women's legal assistances organization, and ECPAT International. Its scope is limited to SEC and its different manifestations, including exploitation of children in prostitution,³ online child sexual exploitation (OCSE), child sexual abuse materials (CSAM),⁴ trafficking of children for sexual purposes and sexual exploitation of children in the context of travel and tourism (SECTT)⁵ and child, early and forced marriage (CEFM).

Status and developments of sexual exploitation of children in Iraq

3. The Republic of Iraq is a federal country composed of 19 governorates, out of which four are part of the Kurdistan Region of Iraq (KRI) in the north. The KRI was recognized as an autonomous federal region by the Constitution of 2005 and is run by the Kurdistan Regional Government.⁶ Baghdad is the capital of Iraq, and Erbil of KRI.
4. The country is home to several diverse ethnic groups including Arabs, Kurds, Assyrians, Turkmen, Armenians and Yazidis, as mentioned in different provisions of the Iraq Constitution.⁷ The total population is 37,203,000 of which 17,460,000 are children - 47% of the total population.⁸
5. According to the latest available estimates, 19% of the population lived below the poverty line in 2012,⁹ and children in Iraq are exposed to a number of risks because of poverty. Boys and girls are driven to engage in hazardous forms of child labour, causing them significant physical and psychological harm while also exacerbating the risk of sexual exploitation and abuse.¹⁰ Social and gender norms, and traditional practices such as child marriage are also factors facilitating SEC in Iraq.
6. Humanitarian crises escalate the risk of sexual exploitation and violence which children are already exposed to during times of peace and stability. The onset of war in Syria in 2011 led to a mass exodus of people from the neighbouring country seeking refuge across the border in KRI and Iraq, with half of the 250,000 refugees made up of children, most of whom still remain in Iraq currently.¹¹ In 2014, Iraq experienced internal turmoil as the militant group Da'esh, also known as the Islamic State of Iraq and Levant (ISIL), captured areas in the north and west of the country, forcing more than 3.3 million people to flee their homes.¹² Non-Muslim and ethnic minority groups were particularly targeted by ISIL, for example with mass atrocities perpetuated against the Yazidi community in northern Iraq.¹³ Boys and girls from persecuted groups have faced high levels of sexual violence and exploitation either through recruitment into ISIL forces or through sexual enslavement by its members. Other children resorted

to survival sex in desperation to escape the environment of violence and abuse and the lack of livelihood opportunities.¹⁴

7. After four years of armed conflict, the GoI regained control over ISIL-occupied areas in 2017. However, many internally displaced people (IDPs), the vast majority of whom are women and children separated from male members of their families, now live in female-headed households and face significant new challenges.¹⁵ Many are trapped in IDP camps and settlements as they lack essential documentation.¹⁶ Amnesty International in 2018 reported the occurrence of sexual exploitation in these camps.¹⁷ Aid workers, camp administration and military personnel working in and near the camps were found coercing women and children into sexual services in exchange for food, medicine, documents and protection.¹⁸
8. Due to poverty, girls are forced into sex trafficking or prostitution by their families.¹⁹ Girls are also sold to criminal networks and are exploited into prostitution.²⁰ In 2015, the Committee on the Rights of the Child noted with concern that *“there are cases of girls sold into prostitution being kept in prison to “protect” them from reprisals for bringing shame on their family/community”*.²¹
9. Boys are also vulnerable to sexual exploitation as their movements in public space are less restricted than girls. Reports from camps in KRI reveal boys as young as seven years being lured by older boys and men to basements, empty structures, or the perpetrator’s home with promises of candy, food or money in exchange for sex.²² Older boys living with their families both in camp and non-camp settings face tremendous pressure to provide for them. The scarcity of employment opportunities pushes them to work informally under exploitative conditions, for instance being forced to provide employers with sexual services in order to receive full wages.²³
10. In 2013, a survey conducted in the Middle East and North Africa region by telecom association GSMA found that 68% of the 500 children (aged 8-17) interviewed across Iraq owned a mobile phone, reaching to over 80% by the age of 15.²⁴ Internet access via smartphones by children exceeded Internet access from home computers, with 78% of the children who used smartphones accessing the Internet on their phones. Globally, the widespread use of technology has radically altered the ways in which children are exploited, enabling perpetrators to contact children, produce and share **CSAM** much more easily.²⁵
11. Recent research analysing CSAM held in Interpol’s database highlights the vulnerability of boys, also revealing higher severity of abuse in the material depicting boys.²⁶ In Iraq, mobile phones, the Internet and other communication technologies are used to sexually exploit and silence boy victims. Evidence of sexual extortion comes from cramped living quarters within camps and settlements in KRI, where older boys and men secretly photograph and film unsuspecting boys while they undress or use the bathroom, and use the material to blackmail them into sexual exploitation.²⁷ Taking advantage of the culture of shame and silence surrounding sexual abuse, perpetrators film the initial sexual encounter (often rape) to further blackmail the victim into continued sexual exploitation by threatening to expose the material to the community. Brief pornographic videos on phones were also shown by perpetrators as bait to lure potential victims to secluded places with the promise of watching more.²⁸

12. The extent of **OCSE** in Iraq is extremely difficult to determine owing to the scarcity of national data on reported cases, prosecution and conviction of perpetrators exploiting children online. Nevertheless, the existence of CSAM has come to light. Inquiries on foreign military personnel in the UK in 2016 found that British troops had used CSAM discovered on the phone of an Iraqi detainee to leverage him into providing information, by printing out the images of child abuse and threatening to distribute the leaflets in the detainee's neighbourhood.²⁹ In the US, soldiers formerly stationed in Iraq have been charged with possession and distribution of CSAM and sentenced to prison for two to four years.^{30,31}
13. There is a lack of national data on **trafficking of children for sexual purposes**. However, it seems that girls are more vulnerable to trafficking for sexual purposes than boys.³² Prosecution need to be initiative by the victims themselves and not *ex-officio* by the State.³³ In some cases, victims have been convicted of prostitution and sentenced to jail.³⁴
14. The UN World Trade Organisation recorded 892,000 international tourist arrivals in Iraq in the year 2013,³⁵ the figure dropping dramatically since then owing to conflict plaguing the country.³⁶ However, travel and tourism rates, particularly to the more stable KRI region, have surged since 2017 after the retreat of ISIL forces. According to local media sources, tourism numbers hit a record high in 2018 with 1.3 million tourists visiting KRI in the first six months of the year.^{37,38} The majority of these tourists were domestic, from Central and Southern Iraq; the remaining from neighbouring countries such as Iran and Turkey.³⁹
15. The Global Study on **SECTT** identified that child sexual offenders include domestic travellers who visit cities and urban settlements with high populations of street-connected children to sexually exploit them.⁴⁰ Additionally, in countries rife with conflict and corruption, impunity for sexual offending is the norm, which has the impact of not discouraging 'situational offending.' Thus, travellers and tourists who may not directly seek out children to exploit still go through with their crime in the absence of any deterrence. In Iraq, particularly in KRI region, which hosts the majority of IDPs and refugees, individuals from these groups are constantly in search of ways and means to survive. In Tikrit, for instance, in an analysis of child protection rapid assessment reports, separated and unaccompanied children were found responding to the lack of livelihood opportunities by resorting to harmful coping mechanisms, including survival sex.⁴¹
16. The country has witnessed a steady rise in **child marriage** over the years, recording an increase in the marriages of girls from 20% in 2012 to 24% in 2016 – of which 5% were below the age of 15.⁴² However, these rates are likely to be much higher since marriages in Iraq and KRI are generally conducted outside the formal legal system by *imams* (Muslim religious leaders) without registration and hence go unreported.⁴³ According to UNICEF, about 24% of female children were married or have been in union before the age of 18.⁴⁴ CEFM in Iraq is driven by socio-religious traditions and poverty. Early marriage is viewed as a means to protect family honour from potential damage caused by engaging in pre-marital sex and relationships.⁴⁵ Forced marriage is observed among tribes, where the tradition of *fasliya* is widely practiced, in which tribal disputes are resolved by 'gifting' a female family member to another tribe. The incidence of *fasliya* marriages is highest in rural and poor areas, particularly in the southernmost provinces of Iraq, and often involves underage girls. The Islamic tradition of polygamy allowing a man to have up to four wives, and temporary marriages known as *mut'a* marriages are used by perpetrators of trafficking to procure girls and women for prostitution. The practice of *mut'a*

marriage does not require witnesses, officials or family members to be involved or the contract to be registered. Perpetrators have been known to use this for trafficking, divorcing the women or girls after crossing the border, and returning to Iraq to repeat the process.^{46,47} During the country's last UPR in 2014, Sierra Leone recommended the GoI to abolish temporary marriage, CEFM and prosecute honour crimes.⁴⁸

17. During the country's last UPR, the report of the Working Group formulated 34 recommendations related to children's rights, but only seven of them were directly related to SEC, and all of them targeted only one manifestation, CEFM.⁴⁹

Legislative framework

18. Owing to the administrative breakup of Iraq and KRI, new laws and amendments originating from the Parliament in Baghdad enacted after 1992 are not recognised as applicable in KRI unless expressly endorsed by legislation of the Kurdistan Parliament, unless they are laws relating to the exclusive federal powers as listed in Article 110 of the 2005 Constitution.⁵⁰ The following paragraphs contain legislations that are applicable in both territories.
19. Pursuant to Article 399 of the Iraqi Penal Code, which was endorsed by the Kurdish Parliament, incitement of minors to prostitution or fornication, and assisting minors to engage in prostitution are criminal offences.⁵¹ The provision protects both boys and girls. The term of imprisonment for such offences has not been described under the said provision.⁵² However, if the offender was a relative of the victim (within three generations), a guardian, protector or custodian of the victim or the victim is the offender's servant, the penalty will be a term of imprisonment not exceeding 10 years.⁵³ The same applies if the offender has authority over the victim, or is a public official, religious leader or doctor and has used the power of his position or trust in him to perpetrate the offence and intends to profit by his action or receives money for such action.⁵⁴ The main limitation of these provisions lies in the fact that the legislation does not define 'child prostitution'. Moreover, the acts prohibited under the OPSC are not expressly covered in the national legislation as it only criminalizes incitement and assistance to prostitution. Although there is no specific offence for engaging in prostitution with a minor, Article 394 of the Criminal Code criminalises the act of having sex outside a marriage with a girl or boy under 18-year-old, even with his/her consent, setting higher penalties when the child is under 15. However, from a strict reading, this article only protects boys from sexual exploitation in the case of a same-sex offenders as it reads, "any person who, outside of marriage, has sexual intercourse with a woman with her consent, or commits buggery".⁵⁵ In addition, Article 398 of the Criminal Code offers to the offender the possibility to legally avoid an investigation and any other judicial proceeding by marrying his victim. This provision is also applicable to cases of sexual intercourse without consent.⁵⁶
20. With the exception of disseminating, exporting and offering, Article 403 of the Criminal Code prohibits the acts prescribed by the OPSC when they involve book, printed or other written material, drawing, picture, film, symbol or any other thing that violates the public integrity or decency. However, the provision requires those acts to be committed with the intent to exploit or distribute such material. In addition, the legal framework does not correctly reflect the gravity of 'child pornography' by failing to have specific criminal provisions defining, in accordance with the OPSC, 'child pornography' and

sanctioning not only its production, distribution, sale, import, but also its dissemination, offer, export or possession for the above purposes. The Criminal Code also remains silent on online grooming, even though, depending on the appreciation of the judges, online grooming could be prosecuted on the basis of Article 399 of the Criminal Code which prohibits incitement of minors to sexual relations.

21. Prohibition of trafficking in children is enshrined in Article 37 of the Iraqi Constitution, which states that, “forced labour, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited.”⁵⁷ The Iraqi 2012 Law on Trafficking in Persons implements this constitutional prohibition.⁵⁸ It reflects some of the key elements of the definition of trafficking in persons of the Palermo Protocol.⁵⁹ The commission of any of the acts prohibited under the definition of human trafficking against a minor shall be punished by life imprisonment and penalty of not less than 15 million to 25 million Iraqi dinars.⁶⁰ While online crime has not been dealt with elsewhere, interestingly the statute also punishes the acts of establishing or managing an Internet website to engage in human trafficking.⁶¹ This statute defines human trafficking as all acts including “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 [...]”.⁶² The legislation is not in full conformity with international standards as it fails to criminalise the acts of transferring and harbouring. In addition, despite signing it 10 years ago, the law fails to follow the standards laid down in the Palermo Protocol according to which the means of trafficking are to be considered irrelevant when the victim is a child. In the Kurdistan area, traffickers enjoy a legal vacuum, as the 2012 Law on Trafficking is not applicable to the Kurdistan region, which however lacks its own legislation on the topic.
22. The Iraqi legislation does not address SECTT specifically, and, in addition, more broadly, the responsibility of legal persons is not addressed by the Penal Code. As a result, complicity or assistance of travel agencies in SEC, for example, by organizing travel arrangements with the purpose of engaging in SEC, will not result in liability for the company. Only the 2012 Law on Trafficking specifies that people maybe held criminally responsible if he/she was an accomplice of trafficking.⁶³
23. During the country’s last UPR, Israel recommend the GoI to abolish and amend all laws that encourage and permit the practice of forced, early and temporary marriages of young girls.⁶⁴ Marriage is regulated by the Personal Status Law (PSL), which sets the minimum legal age for marriage at 18.⁶⁵ However, the legislation does not criminalise the conclusion of a marriage with a person under the marriageable age under certain circumstances. When the child victim in question is 15 years or older, following the ascertainment of the minor’s physical and legal maturity, the Court can authorise the minor to marry, except if the parent or the guardian explicitly objects to the wedding. The judge can also authorise such marriages in case of an urgent necessity.⁶⁶ Consent is also a fundamental condition to the validity of the marriage under Iraqi law.⁶⁷ In addition, the provisions related to early marriage reiterate the need for the informed consent of the child in the conclusion of the marriage by stating, “if a 15-year old person asks to be married”.⁶⁸ This legislation also condemns forced marriages explicitly under Article 9. In addition, while the majority of facilitators of CEFM cases turn out to be close relatives of the victim, the PSL specifically sets lower penalties when the offender is a first-degree relative, with a sentence of maximum three years of imprisonment while a non-first-degree relative might be sentenced to three to ten years of imprisonment.⁶⁹ This provision is peculiar and worrying,

as it seems to condone first-degree relatives who facilitate CEFM by affording a lighter punishment on them. Of particular concern is the fact that the contract will only be voided if the marriage has not been consummated.⁷⁰ The current law applies to everyone regardless of their religious affiliation. However, the Iraqi Constitution recognizes the freedom of anyone to their personal status according to their religion under Article 41.⁷¹ This means that there is room for separate legislation to be applied on marriage, divorce, and inheritance matters based on religious affiliation.⁷² It is under this constitutional provision that, in 2014, a law was proposed by several Shia Islamic parties' members to the Iraqi Parliament that would have allowed courts to make exceptions to the current legal system and allow marriage of girls as young as eight year old by application of religious laws instead of the PSL. After many protests, the amendments to the PSL were finally rejected.⁷³

24. The Kurdistan region has his own legislation related to personal status,⁷⁴ which presents some differences from the Iraqi Personal Status Law (IPSL). Unlike the IPSL, where two exceptions are provided in cases involving children aged 15 and above, a child in the Kurdistan region must be above the age of 16 to be exceptionally authorised to be married.⁷⁵ In addition, regarding CEFM, the Kurdistan Personal Status Law states that, "even if the marriage is consummated, the contract shall be suspended".⁷⁶ Finally, in addition to a similar provision on forced marriage, the Kurdistan legal system additionally recognises CEFM as acts of domestic violence under Article 2 of the Act of Combating Domestic Violence.⁷⁷
25. The Iraqi legal system enables the prosecution of any person in Iraq who is currently present on the Iraqi soil and has committed one of the crimes listed in Article 13 of the Criminal Code abroad, which includes trading in children.⁷⁸ Beyond the crimes listed under Article 13, Iraqi courts and tribunals also have jurisdiction over Iraqi nationals committing a felony or a misdemeanour abroad, provided that the act to be tried is prohibited by both the law of the State where it was committed and by Iraqi law.⁷⁹ Unlike what is recommended by the OPSC, Iraqi courts and tribunals do not have jurisdiction over offences perpetrated abroad against their nationals.
26. With regard to extradition, the Iraqi Criminal Procedure Code differentiates the situation of a person accused of a crime and of a person sentenced by the state requesting extradition.⁸⁰ In the latter case, it is required for the offender to have been sentenced to a least six months of imprisonment. When the person is accused of a crime by the State requesting extradition, the Code establishes the double criminality requirement for extradition, which means that the offender can be extradited only if the crime he/she committed was prohibited in both Iraq and in the country requesting extradition. The offence should carry a prison sentence of not less than two years under the laws of the state requesting extradition and of Iraq. Moreover, the Criminal Procedure Code stipulates that no Iraqi nationals will be extradited,⁸¹ as well as offenders over which Iraq has jurisdiction according to the Criminal Code.⁸² Article 352 stipulates that these rules will be followed in consultation with the regulations of international treaties and agreements and the principles of international law and the principle of reciprocity.⁸³

Recommendations to the GoI

- Provide legal definitions and criminalize all manifestations of sexual exploitation of children in accordance with regional and international standards;
- Repeal the nonconsummation of the marriage as a condition to invalidate a forced marriage and Article

398 of the Penal Code that allows perpetrators to escape justice by marrying their victim;

- Amend the 2012 Law on Trafficking to consider trafficking of children as an offence independently of the means used;
- For the Kurdish region: adopt a trafficking act in conformity with the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;
- Amend the relevant provisions in the Criminal Code to recognize jurisdictions over crimes committed abroad against victims of Iraqi nationality.

General measures of implementation

27. The GoI did not adopt specific National Plan to tackle SEC.

28. During the country's last UPR, Togo recommended the GoI to adopt measures aiming at combating effectively the trafficking of persons and the exploitation of women and children.⁸⁴ The National Child Protection Policy (NCPP) of Iraq was launched in 2017, drafted by the Ministry of Labour and Social Affairs (MoLSA) in collaboration with civil society and UN organisations.⁸⁵ The policy outlines a strategic framework designed to guide national strategies and action plans for the next 10 years.⁸⁶

29. Its objective is to ensure all institutions which provide services to child victims of abuse and violence meet international guidelines for safety and protection in terms of organisation of the built environment and operating protocols.⁸⁷ These institutions include the Juvenile Police Service, the Observatory for Pre-Trial Juveniles, post-trial rehabilitation facilities, Family Protection Units and other specialized centres.

Recommendations to the GoI

- Adopt a specific national action plan to end sexual exploitation of children with specific goals, targets, indicators and timeframes.

Coordination and evaluation

30. The Child Welfare Authority, a body of MoLSA, assumes the lead role in coordinating the different ministries, NGO and other stakeholders involved in the delivery of child protection services. An inter-ministerial council is to be established in order to propose new bills for child protection in parliament, modify and cancel existing laws in compliance with the CRC and international standards, and monitor and report on the enforcement of child protection laws and mechanisms in the country. It is unclear if the council has been established. Emphasis is also laid on working in cooperation with communities, and involving religious and community leaders such as *mukhtars* as key partners in protecting children by condemning abusive traditional behaviours and promoting good practice in religious discourse. Understandably, much focus is placed on eliminating sexual violence and mitigating the adverse effects of conflict. The policy calls for the establishment of integrated programmes across sectors to

improve national efforts to respond to crises situations by collaborating and mapping emergency child protection services provided by international organisations and NGOs.⁸⁸

31. The NCPP does not specifically address the manifestations of SEC. It does however recommend the formation of a national committee on the safety of children on the Internet, which could encompass elements of OCSE. The committee is to propose preventive plans and coordinate efforts of the stakeholders involved, and include especially private sector actors such as Internet service providers and communication companies. Further, there is limited information on ongoing efforts to implement the policy.
32. As government functioning remains severely impaired from years of internal conflict, UN agencies and international organisations providing humanitarian assistance have played pivotal roles in enhancing coordination by working closely with both the Iraqi and KRI governments.⁸⁹ For instance, Interagency Standard Operating Procedures for Child Protection Case Management in the KRI were developed in 2016 in collaboration with 11 government bodies, UN agencies, international organisations and NGOs.⁹⁰ One of its key objectives is to guide coordination procedures preventing and responding to child protection issues in the entire KRI, which covers child victims of sexual abuse, child marriage, prostitution and trafficking.⁹¹

Recommendations to the GoI

- Implement a dedicated coordination body on sexual exploitation of children, with a specific mandate and the necessary authority to coordinate, monitor and evaluate sexual exploitation of children's cases.

Prevention

33. The NCPP incorporates in its strategic framework campaigns to change public opinion and promote children's right to protection by raising awareness about the laws in force and their implementation mechanisms.⁹² The policy also calls for meetings and discussions with clerics and religious leaders to gain their support in discarding harmful traditional practices, and building partnerships with community members to help identify and report abuse.
34. In KRI, the government has adopted a plan to prevent child marriage proposed by the High Council of Women Affairs, which includes the implementation of the "Ensuring My Future" campaign to change prevailing societal attitudes towards marriage as a means of securing girls' futures.⁹³ The campaign uses a combination of religious and health arguments as well as showcases success stories of women in different professional fields to encourage girls to complete their education and pursue careers. In Iraq, UNICEF established a partnership with religious leaders in federal government to develop a framework on prevention of violence against children and child marriage.⁹⁴ The programme aims at changing prevailing norms and attitudes through community and civil society participation in targeted neighbourhoods.
35. In terms of education and training, the Ministry of Education received technical support from UNICEF to develop a school curriculum with psychosocial support and social cohesion components for public

schools in the areas, which were previously under the control of ISIL.⁹⁵ In KRI, Save the Children implemented a resilience programme for children, to recognise and prevent sexual violence and abuse by enhancing children's understanding of protection and rights, and discerning appropriate and inappropriate touches.⁹⁶ The sessions, based on the 'Safe You and Safe Me' booklet, led to the disclosure of experiences of sexual violence by both boys and girls to the facilitators. In order to increase awareness on cybersecurity, the NCPP has named the introduction of a specialized curriculum on children's safety on the internet in schools.⁹⁷ In research for this report, no progress on this work was identified.

36. In order to address the issue of sexual exploitation by aid workers, the Iraq Network to Protect from Sexual Exploitation and Abuse was established by UN agencies. In 2017, 400 frontline workers were trained in Sulaymaniyah, Dohuk, Baghdad, Basra, Soran and Erbil on understanding the power imbalance between aid actors and vulnerable populations, to understand what behaviour was unacceptable, and how to respond when they witnessed or received a complaint about abuse.⁹⁸ On the basis of these trainings, an action plan on preventing sexual abuse and exploitation has been developed. These trainings have also been requested by local organisations and government agencies for their own staff, such as the by Department of Labour and Social Affairs of Thi Qar Governorate, and workers who have received this training already are being involved in conducting them.⁹⁹

Recommendations to the GoI

- Conduct further awareness raising initiatives on the sexual exploitation of children targeted at the wider public;
- Establish a helpline with adequately staffed to respond to a variety of concerns of child victims of sexual exploitation.

Protection of the rights of the child

37. Children's legal right to seek redress for sexual exploitation is enshrined in the Constitution of Iraq, which states that "every person shall have the right to be treated with justice in judicial and administrative proceedings"¹⁰⁰ and that "litigation shall be a protected and guaranteed right for all."¹⁰¹ However, there are no special courts or law enforcement agencies in Iraq that specifically deal with SEC or children in general, and thus all SEC-related cases are to be filed in regular civil and criminal courts. Criminal proceedings on SEC are initiated on the basis of "an oral or written complaint submitted to an investigative judge, a judicial investigator, a policeman in charge of a police station, or any crime scene officer" by the child victim, any person legally representing the child, or a person "who knows that the crime has taken place".¹⁰² These crimes can also be notified to the Public Prosecution.¹⁰³

38. Under Iraqi law, a victim below the age of 18 is considered to lack the full legal capacity to make a civil claim, and hence, these can be made only by a legal representative.¹⁰⁴ This can be an obstacle in their access to justice, especially since children in Iraq may be subjected to SEC-related crimes such as early and forced marriage, or exploitation through prostitution by members of their own family. In such cases where there is a conflict of interest between the child victim and his/her legal representative,

the judge of investigations is authorised to appoint a custodian to them on their behalf.¹⁰⁵ However, this means that the child would have to, alone; seek support from a judge for support to raise civil proceedings, which is highly unlikely.

39. Iraq has not signed the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, allowing child victims to seek remedy solely through domestic measures. Further, there is no Ombudsman for Children or any such independent mechanism in place for children to make complaints directly.¹⁰⁶
40. The Criminal Code contains some provisions, which may be applied to enable child-sensitive justice. It allows for in-camera proceedings in certain cases and for trials to be held in private prohibiting anyone connected with the case to attend “for reasons of security or maintaining decency”.¹⁰⁷ Statements of child victims and witnesses are to be recorded solely for the purpose of evidential enquiry, and only children over the age of 15 are required to give evidence under oath.¹⁰⁸ The investigative judge or judicial investigator must note in the record any factor that may affect the fitness of an individual to give evidence, including his/her age and psychological condition.¹⁰⁹ If there is any reason preventing an individual from attending the proceedings, the investigative judge or judicial investigator should go to the witness’s current place of residence to record his/her evidence.¹¹⁰ However, the implementation of these provisions is doubtful, and there is an absence of publically available case records.
41. There are no specific plans or programmes by the government to support the recovery and reintegration of child victims of SEC in Iraq.
42. The NCPP outlines in its framework strategies for child victims of violence, abuse and exploitation to receive support and facilitate reintegration into their communities. These include developing services for residential care facilities, development of integrated referral mechanisms between all shelters, detention centres and other institutions and to provide specialised health, social, rehabilitation and psychological services and legal counselling for child victims of sexual violence. Reintegration is to be facilitated through strengthening family reunification and education programmes. A press release from MoLSA confirms the launch of its programmes in accordance with the policy’s strategic framework: as of August 2018, MoLSA had begun work in ISIL-liberated areas and areas of displacement on rehabilitating and reintegrating children, and was working on designing non-formal education and vocational training programmes for child victims, as well as a series of awareness sessions in these areas.¹¹¹ Additionally, since the launch of the policy, UNICEF has reported improved quality of child protection and gender-based violence case management in five governorates.¹¹²
43. The Criminal Code states that a person who has suffered “direct material or ethical damage” for an offence has the right to bring a civil claim against the accused, which includes compensation for the damage caused.¹¹³ It reiterates that an individual has the right to consult the civil court on compensation for excess damage even after a definitive criminal judgement has been issued.¹¹⁴ However, it remains unclear whether child victims of sexual exploitation can be included within this ambit. Further, due to limited public access to court records, it is not possible to identify the actual practise relating to compensation mechanisms in Iraq. As of now, there is no separate law or policy that provides compensation to child victims of sexual exploitation.

Recommendations to the GoI

- Create a specific mechanism for monitoring children’s rights;
- Ratify the third Optional Protocol to the Convention on the Rights of the Child on a communications procedure;
- Improve national victim identification procedures to clearly identify child victims of sexual exploitation;
- Develop concrete mechanisms to render recover, reintegration and rehabilitation of child victims of sexual exploitation;
- Improve victim-sensitive justice by taking measures to facilitate in-camera proceedings and maintaining anonymity of child victims in cases of sexual exploitation;
- Establish sufficient number of shelters for child victims of sexual exploitation. Ensure that their address are secret and that they are protected 24/7 by law enforcement officials;
- Ensure that child victims of sexual exploitation have access to free of charge legal aid, medical and psychological care.

¹ Human Rights Council. (2014), “[Report of the Working Group on the Universal Periodic Review: Iraq](#)”, A/HRC/28/14, 12 December 2014.

² Sustainable Development Goal Targets 5.2, 8.7, and 16.2.

³ ECPAT prefers the term ‘*exploitation of children in prostitution*’ instead of ‘*child prostitution*’ in line with the recently widely adopted Terminology Guidelines. ECPAT International (2016), “[Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg, 28 January 2016](#)”, Bangkok: ECPAT, 29.

⁴ ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’ over the often in legal context still used ‘*child pornography*’ in line with the recently widely adopted Terminology Guidelines. *Ibid.*, 39.

⁵ *Ibid.*, 54.

⁶ [Constitution of Iraq. \(2005\)](#). (Republic of Iraq).

⁷ *Ibid.*

⁸ UNICEF. (2017, December). [State of the World’s Children 2017](#). . New York: UNICEF.

⁹ World Bank. (2018, October). [Poverty and Equity Brief: Middle East and North Africa – Iraq](#). Washington D.C.: World Bank.

¹⁰ UNICEF. (2015, Dec). [A Rapid Assessment of Worst Forms of Child Labour](#). Iraq: UNICEF.

¹¹ [Iraq: Syria Refugee Crisis](#). (n.d.). Save the Children.

¹² International Organization for Migration. (2016, February 23). [Displacement in Iraq exceeds 3.3 million: IOM](#). [Press Release].

¹³ OCHR. (2016, June 16). [UN Commission of Inquiry on Syria: ISIS is committing genocide against the Yazidis](#).

¹⁴ Iraq Child Protection Sub-Cluster. (2017, August 21). [Secondary Data Review \(National\)](#).

¹⁵ Amnesty International. (2018). [The Condemned – Women and Children Isolated, Trapped and Exploited in Iraq](#). London: Amnesty International.

¹⁶ McKernan, B. (2017, May 18). [Iraq’s generation of stateless Isis children is being ‘punished for the crimes of their fathers’](#). The Independent.

¹⁷ Amnesty International. (2018). [The Condemned – Women and Children Isolated, Trapped and Exploited in Iraq](#). London: Amnesty International.

¹⁸ *Ibid.*, and Iraq Child Protection Sub-Cluster. (2017, August 21). [Secondary Data Review \(National\)](#).

¹⁹ Alternatives. (2010). [Iraqi Women: Lost Liberties](#).

²⁰ Humanium. (n.d.). [Children of Iraq](#).

²¹ UN Committee on the Rights of the Child (CRC). (2015), “[Concluding observations on the report submitted by Iraq under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#)”, 5th March 2015, CRC/C/OPSC/IRQ/CO/1, 26. b).

²² Chynoweth, S. (2017, October). [Sexual violence against men and boys in the Syria crisis](#). UNHCR.

²³ *Ibid.*

- ²⁴ GSMA. (2014). [Children's use of mobile phones: an international comparison 2013](#). GSMA and Mobile Society Research Institute of NTT Docomo Inc.
- ²⁵ ECPAT International. (2018). [Trends in Online Child Sexual Abuse Material](#). Bangkok: ECPAT International.
- ²⁶ ECPAT International and Interpol. (2018). [Towards a Global Indicator on Unidentified Victims in Child Sexual Abuse Material](#). Bangkok: ECPAT International.
- ²⁷ Chynoweth, S. (2017, October). [Sexual violence against men and boys in the Syria crisis](#). UNHCR.
- ²⁸ *Ibid.*
- ²⁹ Mendick, R. (2016, November 19). [Outrage over army intelligence officers accused of child sex offences in 'witch hunt' against Iraq war veterans](#). *The Telegraph*.
- ³⁰ Martinez, A. (2015, June 16). [Fort Bliss soldier charged in child porn case earned bronze star, 27 other medals](#). *El Paso Times*.
- ³¹ Powell, M. (2014, May 6). [Floyd County father and son plead guilty to child porn charges](#). *The News & Advance*.
- ³² Heartland Alliance for Human Needs & Human Rights. (2011). [Institutionalized violence against women and girls – Laws and Practices in Iraq](#). 19.
- ³³ See e.g. [Criminal Procedure Code No. 23 of 1971 \(As Amended to 14 March 2010\)](#). (1971). Art. 3 (iii) (Republic of Iraq).
- ³⁴ Heartland Alliance for Human Needs & Human Rights. (2011). [Institutionalized violence against women and girls – Laws and Practices in Iraq](#). 19.
- ³⁵ This is the latest available statistic at the time of writing of this report. UNWTO. (n.d.). [International tourism, number of arrivals](#). Compendium of Tourism Statistics dataset- Iraq. Madrid: UNWTO.
- ³⁶ World Travel and Tourism Council. (2018). [Travel and tourism economic impact 2018 Iraq](#).
- ³⁷ Kurdistan Regional Government. (2018, October 15). [Tourism in Kurdistan region hits record high](#). *Iraq Business News*.
- ³⁸ Kurdistan 24. (2018, August 23). [Kurdistan region witnesses tourism boom as Erbil-Kirkuk road reopens](#). *Kurdistan 24*.
- ³⁹ *Ibid.* and Sulaivany, K. (2018, June 19). [Kurdistan region will attract seven million tourists by 2025: tourism board spokesperson](#). *Kurdistan 24*.
- ⁴⁰ ECPAT International, Defence for Children, Ministry of Foreign Affairs of the Netherlands. (2016, May). [Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism](#). Bangkok: ECPAT International.
- ⁴¹ Iraq Child Protection Sub-Cluster. (2017, August 21). [Secondary Data Review \(National\)](#).
- ⁴² [Personal Status Law No. 188](#). (1959). Art. 3. (Republic of Iraq).
- ⁴³ UNFPA. (2016). [Child marriage in Kurdistan region – Iraq](#).
- ⁴⁴ UNICEF. (2018, March). [Global databases: Child Marriage](#). New York: UNICEF.
- ⁴⁵ UNFPA. (2016). [Child marriage in Kurdistan region – Iraq](#).
- ⁴⁶ Kentane, B. [Iraqi Children: Deprived Rights, Stolen Future](#). (2018, June 24). *Global Research*.
- ⁴⁷ Puttick, M. (2015, February). [No Place to Turn: Violence against women in the Iraq conflict](#). United Kingdom: Ceasefire Centre for Civilian Rights and Minority Rights Group International.
- ⁴⁸ Human Rights Council. (2014), "[Report of the Working Group on the Universal Periodic Review: Iraq](#)", A/HRC/28/14, 12 December 2014, Recommendation 127.132.
- ⁴⁹ Human Rights Council. (2014), "[Report of the Working Group on the Universal Periodic Review: Iraq](#)", A/HRC/28/14, 12 December 2014.
- ⁵⁰ [Penal Code No. 111 of 1969 \(Amended in March 2010\)](#). (1969). Introduction. (Republic of Iraq).
- ⁵¹ *Ibid.*, Article 399.
- ⁵² *Ibid.*
- ⁵³ *Ibid.*, Art. 87.
- ⁵⁴ *Ibid.*
- ⁵⁵ *Ibid.*, Art. 394.
- ⁵⁶ *Ibid.*, Art. 398.
- ⁵⁷ [Constitution of Iraq. \(2005\)](#). Art. 37(3) (Republic of Iraq).
- ⁵⁸ [Law No.28](#). (2012). (Republic of Iraq).
- ⁵⁹ UN General Assembly. (2000, November 15). [United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime \(Palermo Protocol\)](#). Res. 55/25.
- ⁶⁰ [Law No.28](#). (2012). Art.6. (Republic of Iraq).
- ⁶¹ [Law No.28](#). (2012). Art.7. (Republic of Iraq).
- ⁶² [Law No.28](#). (2012). Art.1. (Republic of Iraq).
- ⁶³ [Law No.28](#). (2012). Art.9. (Republic of Iraq).
- ⁶⁴ Human Rights Council. (2014), "[Report of the Working Group on the Universal Periodic Review: Iraq](#)", A/HRC/28/14, 12 December 2014, Recommendation 127.140.

-
- ⁶⁵ [Personal Status Law No. 188](#). (1959). Art. 3. (Republic of Iraq).
- ⁶⁶ *Ibid.*, Art. 8.
- ⁶⁷ *Ibid.*, Art. 9.
- ⁶⁸ *Ibid.*, Art. 8.
- ⁶⁹ *Ibid.*, Art. Article 9(2).
- ⁷⁰ *Ibid.*, Art. 9(1).
- ⁷¹ [Constitution of Iraq. \(2005\)](#). Art.41 (Republic of Iraq).
- ⁷² UNFPA. (2016). [Child Marriage in Kurdistan region- Iraq](#). 5. Iraq: UNFPA.
- ⁷³ Human Rights Watch. (2017, December 17). [Iraq: Parliament rejects Marriage for 8-Year-Old Girls](#). Iraq: Human Rights Watch.
- ⁷⁴ [Personal Status Law No. 15](#). (2008). (Kurdistan Region of Iraq).
- ⁷⁵ *Ibid.*, Art. 5.
- ⁷⁶ *Ibid.*, Art. 6.
- ⁷⁷ [The Act of Combating Domestic Violence in Kurdistan Region- Iraq No. 8](#). (2011). Art. 2. (Kurdistan Region of Iraq).
- ⁷⁸ [Penal Code No. 111 of 1969 \(Amended in March 2010\)](#). (1969). Art. 13. (Republic of Iraq).
- ⁷⁹ *Ibid.*, Art. 10.
- ⁸⁰ [Criminal Procedure Code No. 23 of 1971 \(As Amended to 14 March 2010\)](#). (1971). Art. 357-A. (Republic of Iraq).
- ⁸¹ *Ibid.*, Art. 358(4).
- ⁸² *Ibid.*, Art. 358(2).
- ⁸³ *Ibid.*, Art. 352.
- ⁸⁴ Human Rights Council. (2014), "[Report of the Working Group on the Universal Periodic Review: Iraq](#)", A/HRC/28/14, 12 December 2014, Recommendation 127.137.
- ⁸⁵ United Nations Assistance Mission in Iraq (UNAMI). (2017, July 5). [National Child Protection Policy of Iraq launched in Baghdad](#). [Press release].
- ⁸⁶ Ministry of Labour and Social Affairs. (2017). [National policy document for child protection](#). [translated from Arabic].
- ⁸⁷ *Ibid.*
- ⁸⁸ Ministry of Labour and Social Affairs. (2017). [National policy document for child protection](#). [translated from Arabic].
- ⁸⁹ UNICEF. (2017). [UNICEF Annual Report 2017 – Iraq](#). Iraq: UNICEF.
- ⁹⁰ Ministry of Labour and Social Affairs. (2016, April 18). [Interagency Standard Operating Procedures for Child Protection Case Management in the Kurdistan Region of Iraq](#).
- ⁹¹ *Ibid.*
- ⁹² Ministry of Labour and Social Affairs. (2017). [National policy document for child protection](#). [translated from Arabic].
- ⁹³ UNFPA. (2016). [Child marriage in Kurdistan region – Iraq](#).
- ⁹⁴ UNICEF. (2017). [UNICEF Annual Report 2017 – Iraq](#). Iraq: UNICEF.
- ⁹⁵ *Ibid.*
- ⁹⁶ Chynoweth, S. (2017, October). [Sexual violence against men and boys in the Syria crisis](#). UNHCR.
- ⁹⁷ Ministry of Labour and Social Affairs. (2017). [National policy document for child protection](#). [translated from Arabic].
- ⁹⁸ UNFPA. (2018, January 9). [Preventing sexual abuse and exploitation in Iraq](#). [Press release].
- ⁹⁹ *Ibid.*
- ¹⁰⁰ [Constitution of Iraq](#). (2005)Art. 19(6).
- ¹⁰¹ [Constitution of Iraq](#). (2005). Art. 19(3). (Republic of Iraq).
- ¹⁰² [Criminal Procedure Code](#). (1971). Art. 1(A). (Republic of Iraq).
- ¹⁰³ *Ibid.*
- ¹⁰⁴ *Ibid.*, Art. 11.
- ¹⁰⁵ *Ibid.*, Art. 5.
- ¹⁰⁶ Ministry of Labour and Social Affairs. (2017). [National policy document for child protection](#). [translated from Arabic]
- ¹⁰⁷ *Ibid.*, Art. 152.
- ¹⁰⁸ [Criminal Procedure Code](#). (1971). Art. 60(B). (Republic of Iraq).
- ¹⁰⁹ *Ibid.*, Art. 65.
- ¹¹⁰ *Ibid.*, Art. 67.
- ¹¹¹ Ministry of Labour and Social Affairs. (2018, August 7). [Child Welfare Authority discusses draft Iraqi child protection law](#). [translated from Arabic].
- ¹¹² UNICEF. (2017). [UNICEF Annual Report 2017 – Iraq](#). Iraq: UNICEF.
- ¹¹³ [Criminal Procedure Code](#). (1971). Art. 10. (Republic of Iraq).
- ¹¹⁴ *Ibid.*, Art.18.