

# **Universal Periodic Review**

## **Iraq**

### **third session**

#### **Providing summary for stakeholders**

##### **The Observer Human Rights Center OHRC (Alrased)**

**3/March/2019**

OHRC is nongovernmental independent nonprofit Iraqi organization, registered in NOGs department / General secretariat for Iraqi minister's council, it's goal to spread and defend human rights culture and try to stop violations of human rights, OHRC was established in 2003 and participate the first and second UPR cycles by submitting stakeholders reports.

The developments in the human rights situation in Iraq since its UPR have resulted from the consequences of the occupation by subversive gangs and the ensuing civil war, internal divisions and regional unrest. Paralysis led to a political absence, partly due to the willingness to compromise on the part of the Government, to further violations. The failure to respond to the demands that were discussed by the government and the violent response to the subsequent demonstrations in Baghdad, Anbar and the rest of Iraq have led to extremism rather than political dialogue. This tendency has been exacerbated by the pursuit of activists and media figures who have repelled the government. The organization benefited from political differences along with other groups willing to defend its objectives in violent ways from these conflicts.

2014 and 2015 were the most bloody years since 2003 when it comes to civilians injuries and confronting the Iraqi armed forces and the popular crowd forces and ISIS in Mosul, Anbar, Salah Al din and other areas, which Indicating the continued deterioration of the security situation and the resulting sectarian conflict of political conflicts, and in conjunction with the absence of political administration to face the challenges that followed, the Iraqi institutions is incapable to prevent the abuse of power or hold accountable perpetrators of serious human rights violations.

According to Iraqi constitution of 2005 Iraq has become a federal state, the constitution also recognizes citizens' rights and freedoms.

And Iraq declared for international agreements after 2005, but the past 4 and half years have been marked by serious violations of human rights and the attacks on the rights and freedoms mentioned in the Iraqi constitution was a serious phenomenon and violence has become phenomenon that recorded on a daily basis and at all levels, it is not possible not to mention the grave violations and attacks on women and their

rights, children and their rights as well as violations affecting minorities, all in the absence of a significant role of the Iraqi Parliament.

- **Information provided by stakeholders**

**A. international obligations and cooperation with international human rights entities and bodies**

Iraqi Council of Representatives has approved the law number 35 of the year of 2015 law of treaty and it's considered as supportive law to apply and harmonize the international agreements with Iraqi laws and the mechanism of adopting it nationally.

**B. National framework for human rights**

After authentication on Iraqi republic constitution on 2005 which included in its legislation's clause 102, regarding the framework of the establishment of independent national commissions and bodies, Law No. 53 of 2008 has been issued to establish the Independent High Commission for Human Rights in accordance with Commission on Human Rights resolution No. 134/48 of 1993

In addition to the independent governmental institutions that the Iraqi government has established out Paris principles which deals with specific segments:

1. Martyrs foundation - deals with Martyrs segment and their families.
2. Political prisoners' foundation - which deals with prisoners and their families.
3. Committee for the compensation of victims of terrorism.

**C. Implement international human rights obligations, considering the international humanitarian law.**

1. despite freeing Iraq from ISIS most of Iraqi areas that the battles occurred on it's still full of bombs specially Al Anbar and Ninawa even though the national strategy reparations of Iraqi government to remove the bombs in 14/Nov/2017 continue to 2021 but the removed bombs isn't more than 200 bomb and mine.<sup>1</sup>

**Recommendation**

- a. We recommend the Iraqi government to take serious mechanism to implement the national strategy to remove the mines and schedule appointments and clear completion rates suits with the duration to implement the plan.
2. Despite the prohibition of international conventions the enforced disappearance, ISIS in 2015 has kidnapped 26 of Sunni clans leaders in Mosul and 59 of Sunni civilians from Al-Alam province in Salah Al Din, Also according to a mutual report for UNAMI and UNHCR that is the organization

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<sup>1</sup> [http://diyaruna.com/ar/articles/cnmi\\_di/features/14/11/2017/feature-](http://diyaruna.com/ar/articles/cnmi_di/features/14/11/2017/feature-)

in 2016 has kidnapped 800-900 child in Mosul for civil and military training<sup>2</sup>, Also ISIS in 2017 has forced displacement of citizens and used them as humans shields on a wild scale<sup>3</sup> and in 2015 they imposed a lot of rough sanctions to target minors. As an example, in the 2<sup>nd</sup> of September the organization has cut the hand of a 13 years old boy in Al-Toob market at the center of Mosul city<sup>4</sup>.

### **Recommendations**

- a. We recommend criminalizing all ISIS actions and consider it as war crimes and legislation the national laws that includes chasing the perpetrators and compensate the victims a fair compensation also implement the security council resolution number 2379

## **Civil and Political Rights**

### **The right to life, freedom and personal security**

3. Torturing detainees and abusing them are common practice, even though Iraq is part of UN agreement CAT, but it doesn't have laws or guidelines to guide the judicial work when the accused alleged that they have been tortured and abused. The 'UN assistant mission in Iraq ' UNAMI said that " the judges in some cases, don't take any procedures when the accused claim that they have been tortured to force them to recognize the crimes that they are being judged for" <sup>5</sup>
4. Imposing sanctions by prisons and detention centers managements that belongs to the Iraqi ministry of justice on violators of regulations and instructions continues by forming a committees for this purpose which has the validity to suggest different types of sanctions began with solitary confinement that called (quarry), denial of visitation, sport, and participating in some activities and the percentage of sites imposed these sanctions in 2016 was 67% , in 2017 increased to 87% and in 2018 reached 81%, we see is this rate is high which means the prisons is suffering from prisoners and detainees a significant disobedience to rules and regulations that forced the administration to take such decisions, and we see that to addressing the root causes is better than dealing with results<sup>6</sup>

### **Recommendations**

- a. provide each prisoner with suitable space and reduce overcrowding by construction buildings that is conformed to international standards.
- b. separate the prisoners according to their committed crimes type.
- c. paying attention to the health and psychological aspects of the prisoners by providing specialized medical detachments
- d. speed up the implementation of the parole.

### **The administration of justice, including impunity, and the rule of law**

5. The situation in prisons and detention centers in Iraq is still a matter of concern because it is a system based on recognition, not an evidence-based system. As for impunity, there are several reasons for it in Iraq, the last general amnesty law No. (27) of 2016, as well as some provisions that help to avoid punishment, as stated in Article (73) of the Constitution of Iraq (2005), which gave

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<sup>2</sup> 305/2015 / S and the report on the protection of civilians in armed conflict in Iraq for the period from 1 May to 31 October 2015 as well as the report of 2017.

<sup>3</sup> Amnesty International Report 2017-2018

<sup>4</sup> The report on the protection of civilians in armed conflict in Iraq for the period from May 1 to October 31, 2015

<sup>5</sup> [https://www.ohchr.org/Documents/Countries/IQ/UNAMI\\_HRO\\_DP\\_1Oct2014.pdf](https://www.ohchr.org/Documents/Countries/IQ/UNAMI_HRO_DP_1Oct2014.pdf)

<sup>6</sup> 2018 the Annual Report of the Justice Network of presoners.

the President of the Republic upon the recommendation of the PM the possibility of granting a special amnesty for crimes, also there is some factual reasons, such as the tribal system which helps to save the offender from punishment, especially in family crimes and honor crimes that not reported<sup>7</sup>.

**Recommendation**

- a. Complete legislative frameworks to ensure impunity.
- b. Encourage citizens to take responsibility for national.
- c. Providing social peace that coincides with confidence in the political system.

**Fundamental freedoms and the right to participate in public and political life**

6. Iraq has witnessed a lot of peaceful demonstrations in many cities where the armed forces, special units and the police broke up the demonstrations in most of Iraqi cities like Baghdad, Basra, Najaf, Thi-Qar, and other cities, the evidences suggest - such as death certificates and eyewitnesses' testimonies – that the Iraqi forces using excessive force to break up demonstrations and arrests without a warrant. The fact-finding committee established by the Council of Ministers published a report on the events and the existence of a shortcoming by the Ministry of Interior and the death of dozens of demonstrators. All this is because of the lack of political will, yet until now any investigation results have not been published.
7. OHRC has information's about more than 5 cases for murdering and torturing journalists, activists and defenders by unknown attackers and the authorities has failed to investigate in their deaths, Let alone accounting the officials.

**Recommendation:**

- a. Stop excessive use of force against demonstrators and other practices leading to extrajudicial killings.
  - b. Issue explicit instructions to the security services not to prosecute and arrest without judicial orders for demonstrators and to ensure the right to express opinion.
  - c. Investigate all extrajudicial killings and excessive use of force with a view to identifying and holding accountable officials.
8. The government has not taken enough procedures to remove the obstacles that affect the integrity of the electoral process and the conduct of the census.

**Recommendation**

- a. Review of instructions and laws to comply with international standards for free and fair elections.
- b. Developing the mechanisms to combat electoral fraud and encourage the participation of ethnic and religious groups.

**Press freedom**

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<sup>7</sup> Iraqi constitution and general amnesty law No. (27) of 2016

9. Iraqi constitution for year 2005 article 38 guaranteed freedom of expression<sup>8</sup>. Also article 2 of the Iraqi Constitution prohibits the enactment of any law that conflicts, article (46) of the Iraqi Constitution states that rights and freedoms may be regulated by law. Article 21 of the Journalists' Rights Law No. 21 of 2011 affirms the right of the journalist to obtain and re-publish information, news and data and has the full right to preserve the confidentiality of sources of information. The Supreme Judicial Council has formed a court to deal with cases of publication and media<sup>9</sup>. However, despite all these legal rights, the journalist in Iraq is still being arrested and without warrants of judicial arrest often, like the demonstrations in Basra and the violations that occurred there.

#### **Recommendations**

- a. Activating the constitutional provisions on the protection of press rights (Article 38,46,2) And the legal texts (the Rights of Journalists Law No. (21) of 2011 in Article (4)), And finding penalties for violating the provisions of the above-mentioned articles is appropriate to guarantee freedom of the press.

### **Economic, social and cultural rights**

#### **Right to work and fair and favorable working conditions**

10. Despite that Iraqi constitution guaranteed in article No.22 First The right to work for all Iraqis to ensure the dignity of their lives, but the Iraqi citizen still suffers from poverty and unequal employment opportunities, the unemployment rate, which amounted to 30 percent of the population, according to the statistics of the Ministry of Planning<sup>10</sup>.

#### **Recommendations**

- a. Guarantee a decent work for each Iraqi individual capable to work and enact national legislation that guarantees justice.

#### **The right in social security**

11. Law guaranteed the social security right and retirement for private sector workers and employees, the Department of Retirement and Social Security is working on applying the provisions of the Labor Law No. 37 of 2015, focusing its work on the collection of labor contributions from employers<sup>11</sup>, however, private sector workers and employees continue to suffer persecution because of lack of clear government support for them.

#### **Recommendations**

- a. Issuing instructions to employers in case of violation of social security terms.  
b. Increasing the legal awareness of private sector employees of their rights to the Iraqi labor law through the media.

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<sup>8</sup> Iraqi constitution article 38

<sup>9</sup> Constitutional provisions see articles 38, 46 and 2 of the Constitution and article 4 of the Journalists' Rights Law No. 21 of 2011

<sup>10</sup> Ministry of Planning Statistics 2017

<sup>11</sup> Official website of the Ministry of Labor and Social Affairs Iraqi Chronicle Issue No: 4386 | Date of issue: 09-11-2015

## **The right to an adequate standard of living**

### **The right for education**

12. The education sector in Iraq suffers from many problems. According to bulletin media for UNICEF "The lack of investment and resources in education threatens the future of millions of Iraqi children, where 3.5 million Iraqi children in school age lacks to education, which means they are more likely to have early marriage, child labor and recruitment by armed groups, half of the school buildings in Iraq need urgent repairs. And as children drop out of school, others fail in school."<sup>12</sup>

#### **Recommendations**

- a. providing enough suitable schools buildings, using advanced education methods, providing meals in schools, financial aids, and entertainment facilities.

## **Rights of specific persons or groups**

### **Women rights**

13. Iraq still laggard in establishing the shelter for battered women despite CEDAW committee call in it's concluding remarks in 2014 for Iraq to ensure the availability of shelters for women, however, Iraq did not establish such centers.<sup>13</sup>

While the Iraqi constitution prohibits "all forms of violence and abuse in the family," the Kurdistan region is the only area with a law on domestic violence.<sup>14</sup>

Iraq has adopted in the draft law on domestic violence a neutral formulation regarding the consciences of masculine and feminine, this formulation does not recognize the fact that women - in Iraq and globally - are disproportionately affected by domestic violence.<sup>15</sup>

#### **Recommendations**

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<sup>12</sup> [https://www.unicef.org/arabic/infobycountry/24327\\_96020.html](https://www.unicef.org/arabic/infobycountry/24327_96020.html)

<sup>13</sup> Article 8 of the draft law obliges the Ministry of Labor and Social Affairs to establish shelters - called safe centers in 2016 amendments - for survivors of domestic violence. Several United Nations bodies, including the United Nations Women's Fund, the General Assembly, the CEDAW Committee and the Committee on Economic, Social and Cultural Rights, called upon States parties to ensure that survivors of domestic violence receive shelter, health services, legal assistance, hotlines and other forms of support. General, "Updated Model Strategies and Practical Measures to Eliminate Violence against Women in Crime Prevention and Criminal Justice", 2011; CEDAW Committee, General Comment No. 19, Violence against Women (Session XI, 1992) Article 24 [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/I](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/I)

General Comment No. 16 (2005), "Substantive issues arising from the implementation of the International Covenant on Economic, Social and Cultural Rights: equality between men and women in the enjoyment of all economic, social and cultural rights (article 3 of the International Covenant on Economic, Social and Cultural Rights) United Nations Document No. E / C.12 / 2005/4 (11 August 2005), para. 27.

<sup>14</sup> World Health Organization, "Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence," 2013, [http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf)

<sup>15</sup> <https://youtu.be/srNVFKRDKPY>

- a. Following the United Nations Guide, which recommended that the legislator recognize "violence against women is a form of discrimination"<sup>16</sup>.
- b. The legislations be gender-sensitive, which requires recognition of "disparities between women and men and specific needs of women and men"<sup>17</sup>.
- c. Establishing adequate shelters for battered women.

## **Children**

14. Although the Iraqi Constitution guarantees the right to life and security in Article 15 and the State guarantees the protection of children in Article 29 , the State shall guarantee in article 30, the right to social security and decent living, but the Iraqi child still suffering from labor and organized begging where in Baghdad there's more than 1200 beggar, in its 2017 report, the Supreme Judicial Council referred to 200 cases involving human trafficking, most of which involved the sale of 110 boys and 90 females<sup>18</sup>.

### **Recommendations**

- a. the Family and Child Protection Act be passed quickly, enacting the Iraqi Child Protection Act, amending the current Penal Code and activating the Human Trafficking Law.

## **Minorities and indigenous peoples**

15. Gypsies (ROMA) are a minority, but most minorities have a "national card" but Roma do not enjoy this absolute right, there is discrimination as a minority that does not enjoy the basic human rights on the one hand, and on the other hand they are distinguished from the rest of the minorities by writing on their identity the word "exception". In addition, since May 2016, the transfer of any kind of nationality (legal personality) to the Roma has been suspended after the adoption of the National Card Act, the fact that the National Card Act, which does not allow the disbursement of any other card except the national card, which prevented the Roma, despite the existence of instructions issued by the Iraqi Interior Ministry that the supplying of the national card to them but there is no application, in addition to the lack of basic services provided (water, electricity, education, etc.) And depriving them of working in the private sector and the public sector and the application of isolation measures against them, all led to their migration<sup>19</sup>.

### **Recommendations**

- a. Iraq to issue the national card to the Roma and raise the delay in the instructions issued by the Ministry of Interior regarding the disbursement of the national card as a discrimination against them through the name that they are entitled to (exception).
- b. provision of basic services such as water, electricity, basic and higher education, adequate food, waste removal and other basic services.
- c. lifting the isolation of Roma in their areas and providing health centers near their homes.
- d. Raise the awareness of the importance of the Roma and the fact that they are a basic component of society and their integration into society with other members of society

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<sup>16</sup> UN Manual, Section 3.1.1

<sup>17</sup> UN Manual, Section 3.1.4

<sup>18</sup> Statistics of the Supreme Judicial Council for 2017. The Iraqi Network for Investigative Journalism.

<sup>19</sup> <https://minorityrights.org/minorities/roma-21/>

## **Migrants, refugees, asylum-seekers and internally displaced persons**

16. According to statistics of the International Organization for Migration (IOM), 507,857 families (304,742 people) have been internally displaced by the conflict since the fall of Mosul in early June 2014 until 13 April 2017. UNMIK and OHCHR recommended that all parties to the conflict refrain from displacing civilians and take the necessary measures to prevent this and find a comprehensive solution. Despite the Iraqi government ending the liberation of the areas of Iraq from the organization is calling, but the file of the displaced is still not settled and still 1,744,980 displaced in the camps<sup>20</sup>, despite Iraq's development of a government program to manage the file of the displaced for the years 2014-2018 and the policy approved by the Council of Ministers Resolution 414 of 2015.

### **Recommendations**

- a. Reconstructing liberated areas and establishing safe havens for the displaced in their liberated areas.
- b. Reconstruction of schools, hospitals, roads and provide services to expedite return.
- c. Providing suitable employment opportunities and adopting the principle of reparation.

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<sup>20</sup>[http://iraqdtm.iom.int/Downloads/DTM%202019/February%202019/Round108\\_Report\\_English\\_2019\\_February\\_IOM\\_DTM.pdf](http://iraqdtm.iom.int/Downloads/DTM%202019/February%202019/Round108_Report_English_2019_February_IOM_DTM.pdf)