

September 5, 2017

Mr. Zeid Ra'ad Al Hussein
UN High Commissioner for Human Rights
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais des Nations
CH-1211 Geneva 10, Switzerland

Via email: civilsociety@ohchr.org

RE: Civil Society Space Report – Input

Dear High Commissioner Hussein,

As you know, civil society space is shrinking worldwide. Governments, authoritarian and democratic alike, increasingly impose restrictions on civil society and human rights defenders, oftentimes in the name of security. Since 2015, 64 laws have been proposed or enacted by governments that seek to restrict civil society's ability to register, operate, and secure funding for their work.¹

In light of this threatening global trend, creating and maintaining a safe, enabling, and accessible civil society space within multilateral institutions such as that of the United Nations (UN) has become all the more important. Notwithstanding, the civil society space at the UN has increasingly come under threat, most recently during the 61st session of the Commission on the Status of Women (CSW) at the UN Headquarters in New York.

Women civil society organizations play a vital role in communities impacted by conflict and, therefore, must have unimpeded access to international fora and decision makers. In order to participate at all levels of decision-making, political processes, conflict prevention, resolution and peace processes, organizations and activists must have access to the global community, as outlined in the Women, Peace and Security agenda. Importantly, UN Security Council Resolution 2122 (2013), which aims to strengthen women's role in all stages of conflict prevention, also recognizes the importance of engagement between civil society, particularly women's organizations, and the UN Security Council at Headquarters in New York as well as in the field.

Shrinking Civil Society Space at the United Nations

In March 2017, the UN Commission on the Status of Women (CSW) took place under the shadow of the United States' escalating anti-immigrant, anti-refugee and anti-Muslim policies that significantly hindered civil society participation in the 61st session. President Trump's Travel Ban rendered a number of women's rights advocates and civil society representatives unable to enter the United States to attend the session, thereby preventing them from exercising their right to political participation at the UN Headquarters in New York. The absence of these civil society representatives further led to the exclusion of their voices from key discussions and negotiations at the session, undermining the transparency, credibility, and relevance of policy

¹ International Center for Not-For-Profit Law (2016, September) "Survey of Trends Affecting Civic Space: 2015-16", Global Trends in NGO Law, 7(4). Available at: <http://www.icnl.org/research/trends/trends7-4.pdf>

development and decision-making at the 61st CSW with further implications for the work of the UN more broadly.

In addition to restrictions on participation, civil society access to the negotiation processes for the final Agreed Conclusions also came under unprecedented attacks at the 61st CSW. The UN Security Division imposed limits on NGOs' access to the UN premises, and the Security staff attempted to remove civil society pass holders from the building after 6pm. Moreover, the final round of negotiations for the CSW Agreed Conclusion were held in the Economic and Social Council (ECOSOC) Chamber and Trusteeship Council Chamber, which are located on the off-limits second floor. This arrangement severely restricted the ability of civil society representatives to engage with Member States delegates and support the progress of the negotiations from outside of the negotiation room.

The latest obstacles to civil society participation at the UN Headquarters in New York will likely extend beyond the 61st CSW. Civil society access to future CSW sessions, and to all UN policy development, planning, and decision-making spaces, including, the Security Council and General Assembly, is also threatened. Year round, women and other gender justice advocates participate in critical convenings at the UN headquarters, including, but not limited to, during the Permanent Forum on Indigenous Issues in May, the High-Level Political Forum in July, the Open Debate on Women, Peace and Security in October, International Day of Persons with Disabilities, and LGBTI advocacy week in December. It is at the UN Headquarters in New York that civil society advocates from across the globe engage with the world's leaders and decision-makers in order to shape relevant and well-informed national and international priorities and policies.

The restrictive and discriminatory policies are also the latest example of growing attempts worldwide to curtail civil society participation in democratic spaces, and represent a much broader threat, not only to the CSW, but also to the very foundations of multilateral cooperation, rule of law, and human rights. As recognized in the report of the UN High Commissioner for Human Rights,² Governments across all continents have deployed a diverse array of methods to restrict civil society space. Since 2015, 64 laws have been proposed or enacted by governments that seek to restrict civil society's ability to register, operate, and secure funding for their work.³ In Egypt, authorities increasingly employ systematic tactics to obstruct the work of independent civil society.⁴ As a result, human rights advocates currently face travel bans, arbitrary arrest and detention, constant harassment, and the freezing of their personal and organizational assets.⁵ Similarly, Venezuelan authorities impose growing restrictions to significantly reduce independent civil society participation in public affairs, and wage smear campaigns against human rights defenders to undermine their work to promote and protect human rights.⁶

² United Nations General Assembly, Human Rights Council, *Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned*, ¶¶ 9 U.N. Doc. A/HRC/32/20 (2016),

³ International Center for Not-For-Profit Law (2016, September) "Survey of Trends Affecting Civic Space: 2015-16", *Global Trends in NGO Law*, 7(4). Available at: <http://www.icnl.org/research/trends/trends7-4.pdf>

⁴ African Commission on Human and Peoples' Rights, Press Release on the Situation of Human Rights Defenders and Civil Society Space in the Arab Republic of Egypt, December 30, 2016, available here <http://www.achpr.org/press/2016/12/d343/>

⁵ Ibid.

⁶ Front Line Defenders, the situation of human rights defenders; Venezuela, March 2016, available here: https://www.ishr.ch/sites/default/files/documents/venezuela_updatemarch2017-2.pdf

In view of the global trend of shrinking of civil society space, democratic space at the international level, particularly that of the UN, is an even more critical site for civil society to hold Governments accountable and continue to advance human rights. At a time when women's human rights are under attack globally, international spaces become all the more important. Maintaining access for civil society, particularly women's human rights defenders, to the UN policy development, planning, and decision-making spaces is essential for advancement of women's human rights worldwide and the gender-responsive realization of the 2030 Agenda for Sustainable Development. The current hostile environment means that women who face multiple and intersecting forms of discriminations need to be at the center of conversations on human rights at venues like CSW more than ever.

Civil society participation is necessary for the work of the UN. The UN Secretary-General, António Guterres, has affirmed that “civil society is a key instrument for the success of today's UN,” and that “dialogues and cooperation with civil society will ... be a central aspect of the activities of the UN in the next few years.” For this to happen, civil society needs free and uninhibited access to the UN, without discrimination based on nationality, religion, income, migration status, or any other factor.

Best Practices: Iraqi Activists' Advocacy for Rights at the United Nations

In instances where civil society organizations have secured effective avenues for meaningful and constructive engagement with stakeholders within the UN system, including at the UN Headquarters in New York and Geneva, they have made crucial contributions to informed policy development and decision-making by linking them to what is happening at the country level. These positive examples serve as a clear testament to the mutual benefit of creating and maintaining free and uninhibited civil society access to decision-making spaces within the UN system for collaboration and dialogue to forge sustainable solutions to peace and security issues around the world.

One such positive example is the work of the Organization of Women's Freedom in Iraq (OWFI) – a local Iraqi women's rights organization – to protect Iraqi women and girls from sexual and gender-based violence (SGBV), and promote their rights through utilizing the democratic space at the UN. OWFI along with international allies from MADRE and the Human Rights and Gender Justice Clinic (HRGJ) Clinic of the City University of New York (CUNY) School of Law have engaged with the UN Human Rights system as well as the UN Security Council and its working groups to challenge the Iraqi Government's harmful policy against shelters run by non-governmental organizations (NGOs) for survivors of SGBV.

In central and southern Iraq, it is against public policy for local NGOs to provide shelter for women escaping domestic violence, attempted “honor” killings, trafficking or other forms of gender-based violence. Despite the policy prohibition, OWFI has stepped up to meet the needs of survivors of gender-based violence by providing much needed shelter and support services, albeit covertly. Operating a shelter in a war-torn country is a deeply challenging venture; operating one clandestinely even more so.

The takeover of Mosul by the Islamic State of Iraq and the Levant (ISIL) and the ensuing humanitarian crisis led to an exponentially higher demand for NGO-runs shelter and supportive services for displaced persons, particularly women and girls. Despite many government officials' public support for the anti-shelter policy, the ongoing conflict has increasingly

compelled change. Local Iraqi activists recognize that amending the shelter policy in this time of massive humanitarian crisis will help dismantle pre-existing harmful societal attitudes towards survivors of violence, and broaden the safety net for individuals fleeing both private and conflict-related violence.

OWFI in collaboration with international allies from MADRE and CUNY brought the issue before the UN Human Rights Treaty Bodies in Geneva to raise visibility about the issue and create conditions for effecting structural change in Iraq. In the summer of 2015, Yanar Mohammed, Director of OWFI, testified to the UN Committee Against Torture about dangers posed by the anti-shelter policy. Ms. Mohammed, along with international allies from MADRE and the Human Rights and Gender Justice (HRGJ) Clinic of the City University of New York (CUNY) School of Law, argued that the ban puts women at risk of torture and death.⁷ In response to Ms. Mohammed's testimony, the CAT made an unprecedented decision, calling on the Iraqi government to legally permit privately run shelters.⁸ The UN Human Rights Committee followed suit, expressing concern about the Iraqi government's prohibition of NGO-run shelters for gender-based violence victims, and called on the Iraqi government to facilitate access to NGO-run shelters.⁹

OWFI's participation and input ensured that the conclusions and recommendations resulting from the experts' deliberations adequately reflect and respond to the needs of women and girls on the frontline of the conflict in Iraq. The Treaty Body recommendations, in turn, were a key win in the initiative to change the anti-shelter policy. The recognition that, as a matter of international law, the Iraqi Government must allow private shelters to operate, provides sympathetic international stakeholders with essential legal backing to call for such change from the Government of Iraq. Local activists have utilized both committees' recommendations in their advocacy work and continue to call on the Iraqi Government to implement a policy change that would make way for much-needed, Iraqi NGO-run shelters.

In October 2015, Ms. Mohammed also testified before Security Council members during the annual Open Debate on Women, Peace and Security, highlighting the numerous crises facing those fleeing violence, including solutions for meeting urgent shelter needs.¹⁰ Ms. Mohammed

⁷ Organization of Women's Freedom in Iraq (OWFI), HRGJ Clinic of CUNY School of Law, and MADRE, "Seeking Accountability and Demanding Change: A Report of Women's Human Rights Violations in Iraq under the UN Convention Against Torture" (2015), 7; HRGJ Clinic of CUNY School of Law, OutRight Action International (formerly, International Gay and Lesbian Human Rights Commission (IGLHRC)), and MADRE, "Living with Fear: Torture and Discrimination against LGBT Persons in Iraq" (2015).

⁸ UN Committee Against Torture, "Concluding Observations on the Initial Report of Iraq, Advanced Unedited Version" ¶ 23 (d) (14 August 2015).

⁹ UN Human Rights Committee, "Concluding Observations on the Fifth Periodic Report of Iraq" UN Doc. CCPR/C/IRQ/CO/5 (3 December 2015),

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsieXFSudRZs%2fX1ZaMqUUOS%2fZBrZ2ONbDPxzdQn7LCe97KNN%2bL3%2fuJZ0hfO64b%2bEfYCIILnreROQ4z%2fj%2b2tGuKf%2b2%2frsUOSm6ioTERIZEI13>. 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),

<http://www.law.cuny.edu/academics/clinics/iwhr/publications/ICCPR-Iraq-Shadow-Report-GBV-ENG-PDF.pdf>

¹⁰ Yanar Mohammed was the elected by the NGO Working Group on Women Peace and Security as a civil society speaker for the UN Security Council's annual debate on women peace and security. She was nominated by MADRE and unanimously agreed upon by Working Group members. See NGO Working Group on Women, Peace and

has asserted that these testimonies to UN bodies have helped raise visibility on OWFI's campaign domestically and bolstered OWFI's relationship with other Iraqi organizations. Once considered "too radical," other local organizations started joining OWFI's campaign. Similarly, policymakers in the Iraqi Government started taking meetings with OWFI staff.

At the same time, following the creation of the UN Security Council Informal Expert Group on Women, Peace and Security (the Expert Group hereinafter)¹¹ through Resolution 2242, and the designation of Iraq as one of its priority countries for review, local Iraqi activists seized the opportunity yet again to utilize the democratic space at the UN to advance Iraqi women's right to private shelters and physical safety. A coalition of local Iraqi organizations led by OWFI drafted a submission highlighting their concerns—including the need for shelter—as well as recommendations proffered by the CAT and the Human Rights Committee to the Expert Group.¹² The letter was presented to Expert Group members through an informal briefing session held at the Permanent Mission of the Kingdom of the Netherlands to the UN in April of 2016, just before the Expert Group's formal review of Iraq.¹³ Immediately following the briefing, the Expert Group produced a report with recommendations on Iraq for the Security Council. Lending further legal backing to Iraqi women's NGOs, the Expert Group urged the Security Council to "[C]all on the government of Iraq to issue a directive clarifying that Iraqi NGOs may provide much-needed services to survivors of gender-based violence, including shelter."¹⁴

Later in May, MADRE and OWFI worked with the same coalition of local Iraqi women's organizations to draft an open letter to the Security Council regarding the Iraqi Government's anti-shelter policy.¹⁵ Ultimately, over 70 Iraqi NGOs and numerous prominent Iraqi individuals signed onto the letter. MADRE and OWFI presented the letter at a briefing with members of the Expert Group and other interested states in October of 2016, in advance of its second review of Iraq.

Following the review, the Expert Group released its second report and recommendations on Iraq to the Security Council, in which it referenced the open letter.¹⁶ Notably, the Expert Group called on the Security Council to urge the Government of Iraq to legally allow NGOs to run shelters. Due to the raised visibility of the issue and OWFI's advocacy campaign before the UN, the Women, Family and Childhood Committee of the Iraqi parliament and the UN Assistance Mission for Iraq (UNAMI) then invited OWFI to propose amendments to the Family Protection

Security, "Statement by Ms. Yanar Mohammad at the UN Security Council Open Debate on Women, Peace and Security" (13 October 2015), <http://www.womenpeacesecurity.org/resource/statement-UNSC-wps-open-debate-october-2015/>

¹¹ See UN Women, "Statement by UN Women on the Adoption of Security Council Resolution 2242 on Women, Peace and Security" (14 October 2015), <http://www.unwomen.org/en/news/stories/2015/10/ed-statement-UNSC-resolution-1325>

¹² Ibid.

¹³ The briefing was organized by MADRE, OWFI and OutRight Action International.

¹⁴ See UN Security Council Informal Experts Group on Women, Peace and Security, "Republic of Iraq" UN Doc. S/2016/683 (29 April 2016).

¹⁵ MADRE, "Open Letter to the U.N. Security Council on the Government of Iraq's NGO Shelter Policy" (16 October 2016), <https://www.madre.org/press-publications/human-rights-report/open-letter-un-security-council-government-iraq%E2%80%99s-ngo-shelter>

¹⁶ UN Security Council Informal Experts Group on Women, Peace and Security Republic of Iraq, "Update on Women, Peace and Security in Iraq" (October 2016).

Law.¹⁷ Because this bill mandates the provision of shelter, OWFI has recommended that a key phrase be added to the draft law to clarify that local women’s organizations are authorized to operate shelters for survivors of gender-based violence.

By December 2016, the UN Permanent Representatives of Spain and the United Kingdom issued a letter addressed to the UN Secretary-General echoing support for OWFI’s added language and stating that advocates from Baghdad, Erbil and New York argued that delays in adopting the “Family Protection Law” are affecting the ability of local NGOs to operate shelters and provide life-saving services.¹⁸ The letter also notes positive signs that the Iraqi parliament is open to introducing more favorable shelter provisions in the draft law. This bill offers an important breakthrough for the civil society campaign. If passed by parliament, this amendment to the bill could impact the lives of hundreds and potentially thousands of vulnerable women and families.

Additionally, in June 2017, UNAMI reiterated its support for allowing NGO-run shelters, and pledged to advocate with the Iraqi Government to issue a directive, providing legal coverage for local NGOs to operate shelter. Iraqi women’s organizations are very close to changing the anti-shelter policy in Iraq, enabling groups like OWFI to legally provide much-needed relief to women and families fleeing gender-based violence.

The example of OWFI and their campaign to reform the Iraqi shelter policy provides an excellent example of how access to and meaningful participation in decision-making spaces at multilateral institutions optimizes civil society’s transformative potential. It allows local organizations to engage with and advocate with international and regional allies to develop and implement policies that adequately respond to their specific needs on the ground and promote human rights in a manner that uproots structural discrimination and violence.

It is thus imperative to reverse the shrinking of civil society space at the UN Headquarters, and ensure the free and uninhibited access of NGOs, particularly women’s rights organizations and advocates, to all decision-making spaces, including to the CSW so that they may fully contribute toward the advancement of women’s human rights and gender equality locally and internationally.

We urge the High Commissioner to:

- Call on governments to remove all barriers that directly and indirectly inhibit women’s full, equal, and effective participation in decision-making at all levels;
- Urge the UN to establish coherent policies and practices across all its bodies, including the UN Security Council, for regular and meaningful engagement, consultation, and

¹⁷ See, e.g., 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 (27 December 2016). Note the official name of the parliamentary committee is the Women, Family, and Childhood Committee. See, The Bylaw of Iraqi Council of Representatives, Art. 70 ¶ 20 (2006), <http://gjpi.org/wp-content/uploads/2009/01/iraqi20parliament20bylaws.pdf> (accessed 27 March 2017).

¹⁸ 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 (27 December 2016).

information-sharing with civil society organizations, particularly women's rights organizations, both at the local and international level, and ensure their implementation;

- Encourage governments and UN bodies to support and fund the attendance and meaningful participation of civil society organizations at all international and regional (peace and security) meetings including donor conferences.