



United Nations Office of the  
High Commissioner for Human  
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# Report on Human Rights in Iraq: July - December 2013

UNAMI Human Rights Office/OHCHR,  
Baghdad

June 2014



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**UNAMI HUMAN RIGHTS OFFICE  
and  
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS**

June 2014, Baghdad



# Map of Iraq



Source: United Nations Department for Peacekeeping Operations Cartographic Section, 2011



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## Executive Summary

*This report is published by the Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI) in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR). It covers the period from 1 July to 31 December 2013.*

*Following a marked increase in the first half of the year, the rate of civilian casualties accelerated further from July – October 2013, before decreasing slightly in November and December. According to the Government of Iraq, 4,114 civilians were killed and 12,023 were injured in the last half of 2013, making a total for 2013 of 6,973 killed and 21,591 injured. According to UNAMI's monitoring, 4,609 civilians were killed and 10,182 were injured in the final six months of 2013. This is a 71.8 per cent increase in overall civilian casualties compared with the same period in 2012. Armed violence and terrorism killed more civilians from July – December 2013 than during the whole of 2012. The total number of civilians killed by armed violence and terrorism in Iraq in 2013 was 7,818 with 17,981 injured, making 2013 the deadliest year for civilians since 2008 when UNAMI recorded 6,787 civilian deaths and 20,178 civilians wounded.*

*Improvised Explosive Devices (IEDs), including Vehicle-Borne IEDs (VBIEDs) and suicide bombers (BBIEDs) continued to kill and injure the largest numbers of civilians. It appears that the majority of these attacks were perpetrated by armed insurgent and terrorist groups, including al-Qaeda in Iraq (AQ-I) and the Islamic State of Iraq and Shams (ISIS). Targets for attack were overwhelmingly civilian in character, and included schools, hospitals, markets, bus stations, playgrounds, cafés, mosques and places of pilgrimage and it appears that these locations were selected with the intention of killing and injuring as many civilians as possible. Baghdad was the worst hit area, with an average of 1.5 IED attacks per day during the reporting period. Diyala, Kirkuk and Salahiddin were also badly affected. UNAMI also confirmed scores of targeted killings, targeting among others employees of State/local institutions, journalists, and members of minority groups. In southern Iraq Shi'a militia groups are suspected of committing targeted killings.*

*There were 40,790 detainees and prisoners in Iraq at the end of December 2013; 15,997 pre-trial detainees (of which 320 were women and 336 were children) and 24,793 convicted prisoners (of which 765 were women and 1,329 were children). UNAMI observed that conditions in many prisons and detention facilities under the authority of the Ministry of Justice (MoJ) continued to improve slightly although many challenges remained, including overcrowding and poor infrastructure in some facilities. The Ministry of Health (MoH) has continued to fail to provide adequate health services in most prisons and detention centres. Juvenile detention centres and reformatories remained substandard or non-existent in many areas of the country. UNAMI continued to receive allegations that detainees and prisoners had been subjected to torture and ill-treatment in order to extract confessions, particularly while in the custody of the Ministry of Interior (MoI). Despite Iraqi law requiring detainees to be informed of their rights to remain silent and to be represented by a lawyer during questioning by investigating magistrates (which is supposed to be commence within 24 hours of arrest) many detainees and prisoners complained that these rights were not respected. Many claimed to have been detained for extensive periods before presentation to the investigating magistrate during which they were subjected to torture, or they were subjected to torture in the presence of the investigating magistrate in order to force them to sign confessions. UNAMI continued to find cases of detainees and prisoners held beyond limits imposed by law, often due to under-resourced courts not being able to cope with demand, and others due to failures of the MoI to confirm to the MoJ whether detainees or prisoners awaiting release were subject to outstanding charges.*

*Problems with respect for fair trial standards also remained. Direct observation of trials by UNAMI noted that Courts frequently convicted accused persons based solely on the evidence of secret informants or confessions despite allegations from accused persons that these had been extracted under duress.*

*Judges consistently ignored such allegations and failed to investigate them. Most defendants could not produce medical evidence of torture because the police investigators who allegedly carried it out either accompanied the defendants to the hearing with the investigative judge, or delayed presenting the victims to the judge to allow marks or wounds to heal. Sources within the criminal justice sector in Basra also confirmed that there were high levels of corruption affecting the administration of justice. Another problem is the chronic shortage of judges in some area, limiting the chances of fair trials.*

*The Government of Iraq continued to implement death sentences, despite consistent failures in the administration of justice to respect due process and fair trial standards and repeated calls from the Secretary General of the United Nations, the United Nations High Commissioner for Human Rights, the European Union (EU), and other members of the international community to implement a moratorium on the death penalty with a view to its abolition in line with relevant General Assembly resolutions. According to information verified by UNAMI, the Government of Iraq executed 124 prisoners (including three women) during the second half of 2013, bringing the total number of executions in 2013 to 177.*

*It remains urgent to reform the legislative framework to protect women from violence and discrimination in Iraq. No concrete steps were taken to implement the Council of Ministers' March 2013 endorsement of the National Strategy on Combating Violence against Women. Meanwhile the draft Family Protection Bill remained subject to closed door Parliamentary discussions. The draft policy for regulation, management and resourcing of shelters was still pending for review by the Ministry of Labour and Social Affairs (MoLSA). As such, women victims of violence still have nowhere to seek sanctuary and limited access to assert their legal rights. Instead, the MoJ provoked a strong response from women's rights organisations when it announced completion of two draft bills on personal status and justice in accordance with religious jurisprudence.*

*Article 409 of the Iraqi Criminal Code no. 111 of 1969 continued to sanction so-called honour killings. UNAMI's monitoring indicated a high prevalence of such killings, despite attempts by families to conceal the crimes. UNAMI also monitored cases in which the police failed to investigate such cases thoroughly. The judiciary also failed to protect victims of honour crimes by seeking to impose minimum possible sentences.*

*Additionally, women were the victims of so-called 'moral crimes' with cases recorded in Baghdad, Mosul and Basra. The suspected perpetrators were Islamist militia groups who perceived the women to have failed to live according to their view of what is acceptable. UNAMI's attempts to assess the authorities' response to these crimes have been hampered by official reluctance to engage on the issue. It appears there was not a single successful prosecution for 'moral crime' during the reporting period. There are also indications that, in some instances, authorities failed to tackle the threat posed to young women and girls by traffickers.*

*Children continued to be the victims of armed violence and acts of terrorism. During the reporting period, the United Nations Country Task Force on the Monitoring and Reporting (CTFMR) on grave violations against children received 157 reports of incidents resulting in the killing and/or maiming of children. The CTFMR was able to verify 128 of these incidents. These attacks killed or injured at least 150 children and left at least 564 maimed or severely wounded. Places where children gather were also targeted as the CTFMR registered 12 attacks against schools and education staff during the reporting period. The Government of Iraq has still not established a formal mechanism for child protection and information-sharing with the United Nations CTFMR on grave violations against children. UNAMI also has serious concerns regarding the treatment of children subject to the criminal justice system, in particular those facing terrorism related charges. There are also indications that police investigators torture children, as they do adults, in order to force them to confess to crimes. Furthermore, there remains a lack of alternatives to detention for children in conflict with the law. Legislative gaps persist, including article 407 of the Iraqi Criminal Code no. 111 of 1969 which contains special provisions for those who kill new-born babies "for honour reasons".*

*The draft bill on the Protection of Religious and Ethnic Minority Group Rights remained under Council of Ministers' review during the reporting period. The Council of Representatives (CoR) agreed to revise the bill in accordance with concerns raised by UNAMI and civil society groups. Violence against minorities continued to increase from July to December. Among the worst hit was the Turkmen Shi'a community of Kirkuk and Salahiddin governorates against whom UNAMI recorded eight IED/VBIED/BBIED attacks during the reporting period, killing 30 Turkmen civilians and injuring 126. The Sunni minority in Basra and Thi-Qar governorates in southern Iraq also suffered a spate of targeted killings from August to October. These attacks were mirrored by attacks on the Shabak community, a Shi'a minority in Sunni dominated Ninewa governorate in the north. Christians and other members of diverse ethnic, religious and cultural groups were also subjected to attacks.*

*Lesbian, gay, bisexual or transgender persons (LGBT) continue to be targeted for violence, harassment, threats and intimidation on account of their perceived sexual orientation. UNAMI received reports of at least six murders that were motivated by perceptions of sexual orientation. Many people who are LGBT informed UNAMI that they fear violence from family members, militias, members of the public, and from the authorities should their sexual orientation be revealed. A number of cases confirmed that they had been sexually and physically assaulted by police after their sexual orientation was disclosed.*

*The Law for the Care of Persons with Disabilities and Special Needs came into effect on 28 October. The CoR addressed some of UNAMI and civil society's concerns with the draft law. There are remaining concerns requiring further attention, concerning the approach to persons with disabilities and the composition of the oversight board, which fails to be independent as required by the Convention on the Rights of Persons with Disabilities to which Iraq is a signatory.*

*Many demonstrations took place in Iraq from July to December on a wide range of issues. In most cases security forces respected demonstrators' rights to peaceful assembly and allowed protests to go ahead without resorting to violence or heavy-handed tactics. Exceptions included violent clashes between demonstrators protesting parliamentary pensions in Baghdad and in Nassiriyah, where security forces fired live rounds at protestors causing injury to four people. Live rounds were also used in Kirkuk, and reporters were intimidated, although no one was injured. It was alleged that organisers of the demonstration in Kirkuk were subsequently detained for prolonged periods without charge and were subject to ill-treatment by security forces. Attacks by insurgent or terrorist groups on demonstrations took the lives of participants in Anbar and Salahiddin governorates. The Government of Iraq used force to end demonstrations in Ramadi and Fallujah at the very end of the reporting period, responding to what the Government indicated was terrorist infiltration of those demonstrations, which sparked a violent counter reaction that resulted in an undetermined number of civilian deaths and injuries.*

*UNAMI confirmed the killings of at least 12 journalists and media personnel from July to December 2013 as targeting and intimidation of media workers continued. Most of the attacks upon journalists occurred in Mosul, Ninewa governorate; where local officials reported on-going investigations no arrests had been made up to the end of the reporting period. A Salahiddin Satellite TV station was subjected to a complex attack on 23 December killing four media workers and injuring ten. In southern Iraq female journalists and NGO workers also reported receiving threats.*

*Armed conflict and violence in Syria continued to impact the humanitarian situation in Iraq where by the end of December 206,137 Syrian civilians had sought asylum; over 200,000 in the Kurdistan Region (KR). By the end of the reporting period, around 40 per cent of the refugees were in camps with the rest hosted by local communities. The Iraqi border with Syria beyond the KR has been closed since October 2012. The KR border was also closed in May 2013, but it reopened in August 2013. From August to September there was an influx of over 60,000 Syrians. The Kurdistan Regional Government (KRG) closed the border again in September 2013 citing a deteriorating security situation. Although UNAMI recognises that large number of refugees has put a strain on public services and local infrastructure in*

*the KR, it joins UNHCR in requesting the Government of Iraq and the KRG to consider opening the border to Syrian refugees.*

*Iraq also had close to one million of its own citizens living as Internally Displaced Persons (IDPs), according to Government statistics, many of who fled their homes in fear of the sectarian violence that followed the Samara shrine bombing in February 2006. More recent violence during the reporting period, has increased their number. The IDPs tend to live either in rented accommodation or informal settlements throughout the country often with limited access to utilities, adequate sanitation, education, and job opportunities. In September the Ministry of Human Rights (MoHR) instructed its provincial offices to establish committees to collect information on the reality of informal settlements.*

*The Iraqi High Commission for Human Rights (IHCHR) was unable to build on advances made in the first half of the year. It failed to elect a chairperson and to establish a central office or regional offices elsewhere in Iraq. Despite this, it began receiving complaints and carried out its own fact-finding missions in the KR and Kirkuk. It also joined the Kurdistan Region Independent Board for Human Rights (KIBHR).*

*The Government's committee on the National Action Plan for Human Rights (NAP) made no further progress implementing the UPR recommendations approved by the Government. According to the Government, 33 of the 135 UPR recommendations it had accepted have been fully implemented. A further 99 recommendations have been partially implemented, while another three recommendations remain to be implemented. Recommendations not implemented include the ratification of the optional protocols to a number of human right treaties and the issuance of a standing invitation to all United Nations special procedures.*

### **Kurdistan Region**

*The KR experienced its first IED attacks since 2007 when two SVBIEDs targeted the Kurdish Asayish security building and the Ministry of Interior in Erbil on 29 September. One of the vehicles was disguised as an ambulance. No civilians were killed, but 20 were reported injured.*

*The total number of detainees and convicted prisoners in the KR was 4,844 at the end of December 2013, according to data provided by the KR authorities. Of these, 2950 were pre-trial detainees, including 70 women and 170 juveniles. 1,894 were convicted prisoners, including 44 women and 50 juveniles. Some pre-trial detention facilities and prisons continued to suffer overcrowding and poor sanitary conditions. Chamchamal and Zakho facilities do not have cells for female detainees. Interviews with detainees confirmed concerns about arbitrary detention and lack of due process. UNAMI noted long delays in bringing accused detainees to trial. Many detainees also made credible allegations of abuse, mistreatment and torture, carried out during pre-trial investigations. By the end of the reporting period, the total number of juveniles in the three MoLSA facilities was 167. The detention conditions in Erbil and SulaimaniyahSulaimaniyah reformatories, as well as the Zakho facility in Dohuk do not comply with international standards. UNAMI received consistent allegations of the ill-treatment of juveniles as punishment for misbehaviour.*

*The KRG made further progress in implementing the Domestic Violence Law (8/2011). By the end of December Directorate of Combating Violence against Women (DCVAW) police investigation units had been established in all six areas of the KR at district and sub-district levels. A reconciliation committee also became operational in Erbil. According to official figures the police and judiciary received 2,353 allegations of violence against women from July to November. The situation of women's shelters in the KR remained unchanged during the reporting period with the KRG draft shelter policy, awaiting approval by the Council of Ministers. According to the government, there were 60 women in MoLSA shelters at the end of the year: 29 in Erbil, 16 in Dohuk and 15 in Sulaimaniyah.*

*Members of the Assyrian community in Dohuk governorate continued to allege that agricultural land belonging to them was being illegally occupied by Kurdish officials and tribal leaders. A committee*

*established to resolve the issue in 2012 had failed to do so by the end of December. Elsewhere members of the Yazidi community alleged that extremist groups had carried out killings and abductions against them. They also accused the KRG of withholding social benefits.*

*People with disabilities in the KR continued to call on the KRG to amend Law no. 22 of 2011 on Rights and Privileges of Persons with Disabilities and Those with Special Needs in the KR to enhance protective measures for persons with disabilities.*

*Journalists and media professionals in the KR suffered violence and intimidations during the reporting period. The violations included threats, physical attacks, assassination, and attempted assassination. Unidentified gunmen shot dead a prominent Kurdish journalist in Sulaimaniyah on 5 December, causing KR Prime Minister Barzani to establish an investigation committee.*

*Migrant workers in KR continued to suffer abusive labour practices including confiscation of passports, substandard living and working conditions, restrictions on movement and financial exploitation. Migrant workers discovered without residency permits can face prolonged pre-trial detention in overcrowded cells. The MoLSA Director General acknowledges that some companies in KR do not adhere to the legal procedures for recruiting and/or employing migrant workers and has established an investigation committee to follow up alleged violations.*

*In December the KIBHR released its first Annual Report on the human rights situation in KR. The report raised concerns about the low number of judges, prosecutors and courts, poor prison conditions and overcrowding and ill treatment of detainees. The report also highlighted some government institutions' failure to cooperate with the KIBHR and recommended adoption of draft Child Protection Law, amendment of the Public Prosecution Law, legislation to replacing the death penalty with life imprisonment, and adoption of the draft Shelter Policy.*

# Recommendations

## Recommendations for the Government of Iraq

### *General*

1. Consider acceding to the Optional Protocol to the Conventional Against Torture (OP-CAT) and the Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR), among other instruments;<sup>1</sup>
2. Review the Iraq's reservations to international human rights treaties, with a view to their possible withdrawal.<sup>2</sup>
3. Consider acceding to the 1951 Convention on the Status of Refugees (and its 1967 Protocol); the 1954 Convention Relating to the Status of Stateless Persons; the 1961 Convention on the Reduction of Statelessness; and the Additional Protocol II to the Geneva Conventions of 1949; and ratify the Rome Statute of the International Criminal Court.<sup>3</sup>
4. Guarantee the independence and effective functioning of the High Commission for Human Rights in accordance with the principles established by UN General Assembly resolution 48/143 (1993) ("The Paris Principles").<sup>4</sup>
5. Consider reopening the border with Syria to allow access to civilians escaping the conflict.

### *Protection of civilians from armed violence and terrorism*

6. Develop policies to address the conditions conducive to armed violence, including undertaking law reform to ensure compliance with due process and fair trial standards, implementing de-radicalisation programmes and anti-poverty strategies by ensuring access to basic services, education and economic opportunities, and ensuring integrated and comprehensive programmes for the medical, psychological, financial and other forms of support for the victims of armed violence and terrorism and their dependents.
7. Ensure that appropriate resources and training for police and security forces are provided to assist investigation of acts of terrorism so that perpetrators are properly identified, charged and dealt with according to Iraq's Constitution and laws and in compliance with Iraq's international legal obligations.
8. Ensure compliance by all officials engaged in law enforcement and the administration of justice with obligations under Iraq's Constitution and laws and in compliance with Iraq's international legal obligations, including with respect to persons detained in relation to terrorism.

### *Respect for rule of law*

9. Amend the Anti-Terrorism Law no. 13 of 2005 to ensure that its provisions comply with international human rights law and the Constitution of Iraq, including with regard to rights of due process.<sup>5</sup>

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<sup>1</sup> According to the Ministry of Human Rights (MoHR) response to this report received on 15 May 2014, the Government of Iraq is in the process of consultations with competent authorities to determine if it will accede to these instruments.

<sup>2</sup> According to the MoHR response to this report received on 15 May 2014, the Government of Iraq is in the process of considering the matter.

<sup>3</sup> According to the MoHR response to this report received on 15 May 2014, the Government of Iraq is in the process of consultations with competent authorities to determine if it will accede to these instruments.

<sup>4</sup> According to the MoHR response to this report received on 15 May 2014, the Commission is established by the Constitution of Iraq and Law 53 of 2008, and enjoys complete financial and administrative independence fully compliant with Paris Principles.

<sup>5</sup> According to the MoHR response to this report received on 15 May 2014, the issue of terrorism is a difficult one which poses a serious danger to Iraqi society, stating its position that fair trial procedures for persons charged under

10. Undertake legal, administrative and institutional reform to ensure that all prisons and places of detention are under the authority of the Ministry of Justice and that they are serviced by dedicated staff accountable to that Ministry.
11. Undertake legal and administrative reforms to ensure that no detainee is held by police for longer than 24 hours before release, or formal charge and transfer to a Ministry of Justice facility.
12. Devote resources to training police and investigators on appropriate techniques for investigating crimes, including the gathering of forensic and other evidence.
13. Ensure compliance by all State officials and their representatives with Iraq's Constitutional and international legal obligations, including in relation to the full implementation of the Convention against Torture. Ensure that all allegations of torture and other forms of ill-treatment are promptly, thoroughly, impartially and independently investigated, that perpetrators are charged and tried according to law, and that victims are appropriately and adequately compensated, including by providing appropriate medical, social and other assistance.<sup>6</sup>
14. Establish an independent oversight body, such as an ombudsman or police disciplinary tribunal, to investigate allegations of abuse of authority or breach of professional standards by police.
15. Establish a judicial police service responsible for bringing detainees from police detention to hearings with the investigative magistrate. Also ensure defendants who have been before the investigative magistrate are not returned to police custody and are released on bail or transferred to Ministry of Justice facilities.
16. Extend the Judicial Investigations Office, piloted in Basra, to all areas of the country.
17. Consider reinstating the Accelerated Judges Programme to tackle shortages of judges.
18. Ensure that Police Commanders are rotated in accordance with institutional directives.
19. Consider increasing security for judges.

#### *Death Penalty*

20. Declare a moratorium on the use of the death penalty in accordance with UN General Assembly resolutions 62/149 (2007), 63/168 (2008), 65/206 (2010) and 67/176 (2012); review the criminal code and the criminal procedure code with a view to abolishing the death penalty or limiting its potential application to only the most serious and grave of crimes;<sup>7</sup> and consider acceding to the Second Optional Protocol to the ICCPR aimed at abolishing the death penalty.
21. Implement international standards that provide safeguards of the rights of those facing the death penalty, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, until the death penalty is abolished in Iraq.
22. Establish a special judicial oversight body to monitor capital trials in collaboration with the Ministry for Human Rights.
23. Issue practice directives to judges not to convict on the sole basis of disputed confession evidence or testimony of secret informants, especially in capital trials.

#### *Women's rights*

24. Ensure that the National Strategy on Combating Violence against Women is fully implemented, including:

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the Counter Terrorism Law no. 13 of 2005 are set forth in the Iraqi Criminal Procedure Code no. 23 of 1971, which is in conformity with international standards..

<sup>6</sup> According to the MoHR response to this report received on 15 May 2014, the Chief Justice of Iraq (President of the High judicial Council) established "human rights courts" in January 2014 to receive, investigate and hear cases referred through the General Prosecutor's office or the Iraqi High Commission for Human Rights alleging violations of human rights – which includes allegations of torture.

<sup>7</sup> According to the MoHR response to this report received on 15 May 2014, Iraqi law restricts application of the death penalty to the most serious of crimes. Please see below, section 4.

- a) review of all legislation to ensure it promotes the rights and protection of women, in particular that the Iraqi Criminal Code no. 111 of 1969 is amended to remove ‘honour’ as a mitigating factor in the commission of crimes of violence against women and family members.
  - b) provision of adequate resources for social and medical support, including establishment of shelters, for victims of domestic or other forms of violence.
  - c) directives that require officials responsible for law enforcement and administration of justice to properly and fully investigate all allegations of violence against women, and to ensure that perpetrators are dealt with according to law.
  - d) appropriate training on gender issues, particularly violence against women, for all State officials responsible for law enforcement and the administration of justice so as to enable those officials to address cases in an appropriate and sensitive manner.
25. Amend the Iraqi Criminal Code no. 111 of 1969 to ensure that the penalties imposed for prostitution are appropriate and reasonable, and ensure the provision of financial, medical and other forms of support, including vocational training, for persons convicted for prostitution. Furthermore ensure that victims of trafficking and sexual exploitation are not criminalised, but treated as victims, and provided with appropriate care, support and assistance.
  26. Ensure that victims of trafficking and sexual exploitation are not criminalised, but treated as victims, and provided with appropriate care, support and assistance.
  27. Take additional measures to prevent forced marriages and ensure that girls and women who are the victims of forced marriages are provided appropriate legal, medical, financial and other support.
  28. Ensure police conduct thorough investigations into suspected honour crimes and introduce accountability measures for those that do not.

#### *Children’s rights*

29. Reform the juvenile criminal justice system to ensure that alternatives to detention are considered for children in conflict with the law, in accordance with international human rights standards.
30. Ensure that juvenile detention facilities provide access to services and conditions appropriate for the physical and mental care and development of children, and that all staff working with children are appropriately trained in the care of children.
31. Ensure the implementation of programmes to guarantee access of all children to basic services, including healthcare, housing and education.
32. Establish a formal mechanism for child protection and information sharing with the UN Country Task Force on Monitoring and Reporting
33. Repeal article 407 of the Iraqi Criminal Code no. 111 of 1969 which contains special measures for persons who kill children for reasons of honour.

#### *Rights of ethnic, religious and other groups*

34. Ensure the following amendments to the draft bill on Protection of Religious and Ethnic Minority Group Rights so that it provides: a) an appropriate and inclusive definition of minorities, b) a mechanism via which minority groups can claim protection for cultural, religious, linguistic and heritage rights, c) cross references other legislation, removing any uncertainty about its primacy and d) mechanisms for implementation capable of making binding decisions.
35. Undertake revision and reform of the school curricula to introduce programmes aimed at promoting equality and respect for all persons, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status;
36. Adopt and implement legislation to prohibit incitement to violence or discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, birth, or other status.
37. Ensure all violent incidents against minority groups are thoroughly investigated and perpetrators are brought to justice in a timely and transparent manner and communities are consulted about decisions related to enhancing their security.



### *Rights of freedom of expression and opinion*

38. Undertake a review of all existing laws and policies to ensure that they provide and protect the rights to freedom of expression and opinion of all persons, and repeal those provisions of the criminal laws concerning criminal libel;<sup>8</sup>
39. Ensure that all prospective legislation respects and protects the rights of all individuals to receive and impart information freely and without hindrance, unless restricted for legitimate purposes as permitted by international law; and
40. Ensure journalists are protected against harassment and violence in the performance of their profession, and that all allegations of such harassment or violence be promptly and thoroughly investigated, and those responsible held accountable according to law.

### *Right to freedom of assembly*

41. Ensure the right of individuals to demonstrate peacefully is fully respected by police and other State authorities.
42. Ensure training for police and other law enforcement officials on civilian crowd control in compliance with international standards.
43. Undertake public education campaigns aimed at creating awareness of individuals' rights, duties, and obligations, particularly in relation to the rights to freedoms of expression, opinion and assembly.

### **Recommendations specific to the Kurdistan Region Government**

1. Release or, where appropriate, prosecute, all detainees held for prolonged periods of time without charge; and ensure that detainees are brought to trial promptly, in full accordance with international fair trial standards.
2. Continue programmes aimed at reducing overcrowding in detention facilities and prisons through construction of new facilities, and review the necessity for pre-trial detention.
3. Establish the legal age of criminal responsibility at 13 years and institute alternatives to imprisonment of juveniles.
4. Enact the Public Prosecution Law, establishing Standard Operating Procedures for Asayish and Police and take steps to ensure that all investigations are conducted under the authority of the Judicial Investigator.
5. Ensure the appointment of sufficient numbers of judges and prosecutors who possess appropriate legal qualifications, are trained in the application of legislation and dedicated to upholding the highest standards of rule of law, fair trial, impartiality and administration of justice.
6. Continue to make progress towards full implementation of the Law on Combating Domestic Violence, ensuring the swift and transparent recruitment of specialized and competent shelter staff and social workers, and providing gender sensitization for all officials working to combat violence against women.
7. Finalize and adopt the shelter policy.
8. Review the existing law on the rights of persons with disabilities to ensure it is in conformity with the Convention on the Rights of Persons with Disabilities, and that it is fully implemented. The Kurdistan Region Government should establish an Inter-Ministerial Council for Monitoring and Developing People with Special Needs (Article 4) that includes representatives of Disabled People's Organizations.

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<sup>8</sup> According to the MoHR response to this report received on 15 May 2014, the Constitution of Iraq and Iraqi law guarantees the rights of freedom of expression and freedom of information.

9. Ensure journalists are protected against harassment and violence in the performance of their profession, and that Courts address the cases of journalists in accordance with the Journalism Law of the Kurdistan Region (Law No. 35 of 2007).
10. Ensure that the right of individuals to demonstrate peacefully is fully respected by police and other authorities; and that appropriate training is given to all police officials on civilian crowd control.
11. Introduce public education on human rights.
12. Ensure the implementation of the Right to Access Information Law No. 11 of 2013, while considering further measures to strengthen the law in compliance with international human rights standards.
13. Streamline, simplify and implement policies and regulations applicable to migrant workers and unify all procedures under one office or ministry. Ensure that information regarding registration processes, rights and responsibilities of migrant workers is available in multiple languages, including electronically, at places of entry to the Kurdistan Region. Investigate and take strict action against companies that fail to register migrant workers within the legal timeframe.
14. Support the independence of the Board of Human Rights and ensure its compliance with the Paris Principles.
15. Consider continuing its policy of protecting civilians affected by violence, particularly members of vulnerable groups and diverse ethnic, religious and cultural groups.

# Human Rights in Iraq: July – December 2013

## 1. Introduction

This report is published by the Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI) in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR). It covers the period from 1 July to 31 December 2013. UNAMI's Human Rights Office is located in Baghdad and has permanent field offices in Erbil, Kirkuk, and Basra. In accordance with standard practice, this report was shared with the Government of Iraq and the Kurdistan Region Government (KRG) for their comments.

A significant increase in armed violence and terrorism took an ever-increasing toll on civilians and civilian infrastructure. Problems persist with the rule of law and the administration of justice, particularly in relation to the application of the Anti-Terrorism Law no. 13 of 2005, failure to respect due process and fair trial standards, and to adequately deal with allegations of torture and abuse of detainees (male and female) in the custody of security forces under the authority of the Ministry of Interior (MoI).

There are also on-going concerns about the respect and protection of the rights of women, diverse religious, cultural and ethnic groups, including sexual minorities, and persons with disabilities.

Respect for the rights of freedom of expression and assembly remained inconsistent – with media professionals continuing to be targeted by acts of violence by armed insurgent and terrorist groups or for harassment by State security forces. Many demonstrations highlighting various social and political issues were carried out peacefully and without incident during the reporting period, however at year's end the Government attempted to use force to end demonstrations that had been taking place in Ramadi and Fallujah since December 2012, which resulted in considerable violence and an undetermined number of casualties.

There was little in the way of positive law reform, particularly in relation to the criminal justice system, protection of women and children from domestic violence, the protection and promotion of the rights of diverse religious ethnic and cultural groups, or on enhancing freedom of information.

Enjoyment of economic, social and cultural rights, including access to basic services such as water, housing, education, healthcare and employment, remains problematic in many areas of the country and is a source of public disquiet. Particularly affected were women, children, youth, persons with disabilities, and members of diverse ethnic and religious groups.

## 2. Armed Violence and Terrorism and its impact on Civilians

### 2.1 Civilians casualties

UNAMI and the Government of Iraq registered a significant increase in numbers of civilians killed and injured as a result of armed violence and terrorism in the second half of 2013.<sup>9</sup> The vast majority of these attacks were attributed to armed insurgent and terrorist groups. The rate of violence and civilian casualties rapidly accelerated from July to October, and decreased slightly in November and December; this drop is mostly attributable to a shift in tactics by insurgent and terrorist groups away from IED attacks on civilian

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<sup>9</sup> Wherever possible, UNAMI sought to verify the information contained in this report directly with eye-witnesses and primary sources, or via at least two independent sources. There were circumstances whereby the security situation in Iraq or other constraint did not allow this, as indicated in the text. UNAMI adopted a conservative approach to reporting figures. When different sources agreed on an incident but differed on casualty figures for example, UNAMI used the most credible figure.

spaces to complex or small arms fire attacks carried out on military and government institutions.<sup>10</sup> According to Government figures, 4,114 civilians were killed and 12,023 were injured as a result of conflict-related incidents and acts of terrorism from July to December. According to UNAMI's monitoring during the same period, 4,609 civilians were killed and 10,182 were injured. This is a 71.8 per cent increase in overall civilian casualties compared with the same period in 2012<sup>11</sup>.

Conflict-related violence and terrorism killed more civilians from July to December 2013 than during the whole of 2012. According to the Government of Iraq the total number of civilians killed in 2013 as a result of conflict-related violence and acts of terrorism was 6,973 and 21,591 were injured. UNAMI recorded the total minimum number of civilians killed as 7,818 while a further minimum 17,981 were injured, making 2013 the deadliest year since 2008, when UNAMI recorded at least 6,787 civilian deaths and 20,178 civilians injured.

The single deadliest day occurred on 10 August, when 31 incidents were reported from various governorates that killed around 100 civilians and injured nearly 300 others. The deadliest month was September, when 887 civilians were killed and 1,957 were injured.

### **2.1.1 Tactics against civilians**

Improvised Explosive Devices (IEDs), including Vehicle-Borne IEDs (VBIEDs) and suicide bombers (BBIEDs), continued to claim the largest numbers of civilians. IEDs killed 1,063 and injured at least 3,381 civilians. VBIEDs claimed the lives of 1,109 civilians and injured 3,476 others. Suicide bombers took 698 civilian lives and injured 1,755. Although it is rare for claims of responsibility to be made in relation to these attacks, there are strong reasons to believe the majority were perpetrated by armed insurgent and terrorist groups including, *inter alia*, al-Qaeda in Iraq (AQ-I) and Islamic State of Iraq and Shams (ISIS).

UNAMI also confirmed scores of targeted killings during the reporting period. Among others, employees of State/local institutions, journalists, and members of minority groups were directly targeted (see 7 and 11, below), often by assailants using silenced weapons in public places. As with IED attacks, it is believed that armed insurgent and terrorist groups were responsible for most of these targeted killings - although in relation to those killings perpetrated in the south of Iraq, it is believed that extremist Shi'a militia groups were responsible.

UNAMI also recorded an increase in "execution-style" killings following kidnapping. November saw a sharp spike in such killings, with 58 civilian victims, a significant increase from the 14 such killings recorded in the previous month.

### **2.1.2 Attacks on civilians**

Civilians living in Baghdad were the worst affected by armed violence and terrorism in Iraq - the capital suffering a daily average of 1.5 IED attacks. The single deadliest attack of the period took place on 21 September when a suicide bomber targeting a funeral tent in Sadr City killed 45 civilians and injured 230. Baghdad also suffered a number of complex attacks, involving a combination of IEDs, suicide bombers, and small arms fire. One such attack occurred on 28 August when more than 11 VBIEDs exploded in 17 locations, killing at least 40 and injuring more than 100 civilians. Another series of coordinated, complex attacks involving IEDs, VBIEDs and small arms fire occurred almost simultaneously in different districts of Baghdad on 3 September. As a result, at least 47 civilians were killed and at least 128 were injured.

Armed insurgent and terrorist groups also stepped up their attacks on recreational spaces in Baghdad. For example on 20 October a suicide bomber detonated his explosives in a café in al-Amil area, killing 35

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<sup>10</sup> The impact of armed violence upon children is covered in Rights of Children and Youth, below.

<sup>11</sup> UNAMI reported 1892 killed and 6719 injured from June – December 2012.

civilians and injuring 40 others. Another IED, targeting a coffee shop in Bayaa district on 20 November, killed 15 civilians and injured 22 others. Five days later a suicide bomber struck a café in Sadriya sub-district of Baghdad killing 22 civilians and injuring 23.

Suicide bombers also targeted Shi'a pilgrims in Baghdad. For example on 5 October, an IED targeting pilgrims on their way to al-Khadhimiya Shrine killed 37 and injured 45. VBIED and BBIED attacks targeting Ashura pilgrims in Baghdad on 16 and 19 December killed 36 civilians and injured at least 84. Mosques and other places of worship were also targeted in Baghdad. For example on 13 July, attacks on mosques in Doura and Mada'in killed nine civilians and injured around 30 others.

Diyala was also hard hit by armed insurgent and terrorist violence during the reporting period. As in neighbouring Baghdad governorate, attackers targeted places of worship and funerals. On 1 July an IED exploded in a mosque in Muqdadiyah district, killing 10 civilians and injuring 30 others, followed by an IED on 11 July that targeted a mosque in Bani Saad district injuring 18 civilians. On 19 July, a suicide bomber, combined with a pre-planted IED, exploded in a mosque in Wajihya district, killing 29 civilians and injuring 48 others. On 1 September there was an attack on the residents remaining in Camp Ashraf in which 53 people were killed, including 52 residents. The remaining residents were subsequently transferred to Camp Hurriya located at Baghdad International Airport zone. The Government initiated a criminal investigation into the attack, but by the end of the reporting period its findings had not been made public. Attacks also targeted public spaces in Diyala. A suicide bomber killed 29 civilians and injured 60 more in Saadiya district, Diyala governorate, on 14 November. On 21 November a VBIED attack on a busy market in Saadiya district killed 25 civilians and injured 33. On 1 August there was an IED attack on a doctor's house in Muqdadiya district killing the doctor and injuring five members of his family, including two children. It appears the doctor was targeted for refusing to issue fake death certificates to members of AQ-I.

Armed insurgent and terrorist groups also attacked civilians in Salahiddin and Kirkuk governorates. Two mosques were targeted in Kirkuk on 23 July, killing eight civilians and injuring more than 30 others. On 15 October, an IED killed 11 civilians and injured 22 during Eid prayers at a Kirkuk mosque. Recreational spaces were also hit; on 30 August in Tuz district, Salahiddin, two IEDs exploded near a football field killing eight civilians and injuring 30; on 12 July a suicide bomber targeted a café crowded with young people in Kirkuk, killing 41 civilians and causing injuries to a further 31. On 4 December, a Kirkuk shopping mall was the target of a complex attack that claimed the lives of six civilians and injured at least 65 more. (For more information see 7.2, below).

Although less affected than other regions, southern Iraq also suffered from a number of IED attacks during the reporting period. On 2 July simultaneous VBIED attacks were reported from Muthanna, Maysan, and Basra governorates, as a result of which 17 civilians were killed and 34 were injured. The explosions in Muthanna were the first to occur there in over three years. Further attacks occurred in Basra throughout July, including a VBIED attack on a market on 29 July, which killed six civilians and injured 26. Following a lull, IED attacks resumed in Basra and Muthanna in October and November. Among the targets were commercial streets and markets. The upsurge in IED attacks in southern Iraq was accompanied by a round of targeted killings, mostly of members of the Sunni community (see below in 7.3).

### *2.1.3 Effects of violence*

Armed violence and acts of terrorism impact severely on Iraqi children, women and men both directly and indirectly. Fear of violence severely impairs civilians' freedom of movement, for example, causing many to restrict their activities outside homes or neighbourhoods.<sup>12</sup> This affects civilians' ability to access

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<sup>12</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry's department dealing with the victims of terrorism conducted a study during the last part of 2013 examining the root causes of terrorism and

workplaces and basic services, including education and health care. Furthermore, an increasing number of civilians are secondary victims of violence – particularly those whose family members have been killed or wounded. In addition to emotional suffering, the death or injury of family members affects livelihoods and often deprives households of breadwinners. Families of those injured or disabled as a result of violence bear significant costs to ensure on-going medical care and support. The psychological toll on children and juveniles of on-going violence cannot be under-estimated.

#### *2.1.4 Protection of civilians*

As noted, many attacks perpetrated by armed insurgent and terrorist groups directly targeted civilians and civilian infrastructure with the intention of killing and injuring as many civilians as possible. Targets included markets, restaurants, shops, places of worship, and bus stations and other public spaces where civilians gather in large numbers. The United Nations Country Task Force on the Monitoring and Reporting (CTFMR) of grave violations against children under Security Council resolution 1612 (2005) recorded 12 attacks against schools and education personnel and nine attacks against hospitals and medical staff during the reporting period. Attacks against recreational and social areas such as playgrounds, football fields, restaurants and cafés, also increased. Many IEDs targeted places of worship with more than 20 mosques attacked. UNAMI recorded 18 attacks on funerals, a result of which 190 civilians were killed and more than 500 were injured. Religious pilgrims were also targeted for attack. In addition to those already mentioned above, UNAMI recorded a minimum of 131 civilians killed and 355 injured in attacks related to the Ashura commemoration.

The deliberate or indiscriminate targeting of civilians, the use of civilians as shields, and prevention of civilians from accessing humanitarian assistance or areas of safety constitutes gross violations of international humanitarian law, international human rights law, and the law of Iraq. The Government must do all it can to protect civilians and to ensure that the perpetrators of such crimes are brought to justice.

As noted in previous reports, UNAMI believes there are a number of aggravating factors contributing to the increase in violence and civilian casualties. As in 2005-2007 political deadlock feeds down into communities, exacerbating sectarian tensions. Armed insurgent and terrorist groups, such as ISIS and AQ-I among others, directly target civilians seeking to exploit these tensions and to create divisions and hatred between diverse communities. They also aim to instil fear in the general population and to undermine faith in the Government's ability to protect its citizens.

UNAMI appreciates the considerable difficulties that the Government of Iraq faces in confronting armed insurgent and terrorist groups. UNAMI remains extremely concerned about the toll that violence is taking on civilians. On 2 August hundreds of Iraqi citizens assembled in Baghdad's Tahrir Square to call upon the Government to increase its efforts to protect them from violence.

UNAMI reiterates its call to the Government of Iraq to increase efforts and to mobilise all members of the community to ensure that citizens who are the direct or indirect victims of violence have appropriate access to effective health<sup>13</sup>, social and financial support. The Government also needs to do all it can to ensure that the perpetrators of such crimes are properly held accountable according to law. Furthermore, UNAMI remains convinced that the Government urgently needs to reinforce the rule of law and promote the respect and protection of human rights. These should include committing more resources to enhancing the forensic and investigatory capacities of police and security force members, and reform of the criminal

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responses to terrorism as well as gaps on the coordinated care of the victims, the findings of which have been shared with relevant judicial and governmental authorities.

<sup>13</sup> As the end of 2013 UNAMI's request for a meeting with the Ministry of Health to learn about specific programmes benefiting victims of armed violence had not been granted.

justice system, including amendment of the Anti-Terrorism Law no. 13 of 2005 to ensure its full compliance with due process and fair trial standards and to promote access to justice. In addition the Government needs to consider de-radicalization programmes and anti-poverty strategies aimed at ensuring the enjoyment of economic, social and cultural rights and equal access to basic services, education and economic opportunities for all people living in Iraq. The Government must also encourage community dialogue and other forms of dispute resolution at the grass roots level to ensure that grievances can be addressed in a peaceful, beneficial manner that promotes justice, respect for human rights and community reconciliation.

## **2.2 Armed violence and civilians in the Kurdistan Region**

The Kurdistan Region (KR) has been largely spared from the violence that besets the rest of Iraq. However, in the first incident of its kind since May 2007, two SVBIEDs targeted the Kurdish Asayish security building and the Ministry of Interior in Erbil on 29 September. One of the vehicles was disguised as an ambulance. No civilians were killed, but 20 were reportedly injured, while six Asayish security officers were killed and 42 Asayish and police were injured. Kurdish forces arrested three Iraqi citizens in connection with the attack who remain in detention in Erbil on terrorism charges.

## **3. Detention and Rule of Law**

### **3.1 Numbers of persons in detention**

According to the Government of Iraq a total of 40,790 persons were detained in the country as at 31 December 2013: 15,997 in pre-trial detention and 24,793 convicted prisoners. All detainees were held under the authority of four Government institutions; the Ministry of Justice (MoJ), the MoI, the Ministry of Defence (MoD), and the Ministry of Labour and Social Affairs (MoLSA). The MoJ held 8,199 pre-trial detainees; the MoI 6,970; the MoD 661 and the MoLSA 167. Of convicted prisoners, the MOJ held 22,403, the MOI held 1,426, and MoLSA held 964. The MOD held no convicted prisoners. Within the total figures cited above, there are a total of 1,085 female detainees and prisoners: 320 female pre-trial detainees and 765 convicted female prisoners.<sup>14</sup> There were 336 children held in pre-trial detention and 1,329 convicted child prisoners.

Mosul prison confirmed in July that 28 prisoners had been released in accordance with Administrative Decree Number 125/2013, which implemented an amnesty declared by Prime Minister Nouri al-Maliki in January 2013. UNAMI also witnessed the release of 54 detainees, including two women, at the Office of the Prison Reform Directorate (Corrections Department) in Rusafa prison in Baghdad on 13 November. Among those released were detainees held in pre-trial detention whose cases had been reviewed and found to lack sufficient evidence to go to trial, those who had served their sentences and who were awaiting release, and those discharged by the courts. Thirty-five of these detainees had been charged or convicted under the Anti-Terrorism Law no. 13 of 2005.

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<sup>14</sup> According to the MoJ, female prisoners had been convicted for the following crimes: robbery 29; murder 172; armed robbery 6; abduction 61; Anti-Terrorism law (s.4) 114; possession of narcotics or banned substances 8; possession of weapons 1; visa and residency related crimes 3; affray or brawling 2; forgery 14; Fraud or scams 5; prostitution 94; embezzlement 22; misdemeanors 13; adultery 11; procurement (pandering) 127; bribery 4; obscene language and public defamation 14. Total: 700.

### *3.1.1 Detention standards*

UNAMI continued to conduct monitoring visits to detention centres and prisons through-out the country under the authority of the MoJ and with the full support and cooperation of the Minister and his staff. UNAMI observed continuing improvements in the general infrastructure and services provided in those detention facilities and prisons. However, UNAMI observed that overcrowding, lack of ventilation and basic hygiene infrastructure problems persist in many prisons.<sup>15</sup>

Also, the planned construction of new facilities and the refurbishment of the existing ones proceeded at a slow pace. For instance in January 2013, UNAMI was informed that al-Baladiyat prison was to be refurbished as a new women's detention centre and that the work would be completed within six months. At year's end the refurbishment of the prison had not been completed.<sup>16</sup>

UNAMI continued to observe problems with the provision of health services in detention facilities and prisons. While MoJ officials did their best to ensure the transfer of prisoners and detainees to hospitals for emergency and other medical cases, UNAMI noted a persistent lack of medical staff and equipment in most prisons and detention facilities.<sup>17</sup> UNAMI noted that health and dental care facilities in the female section of Rusafa prison in Baghdad were inadequately staffed.<sup>18</sup> UNAMI conducted direct advocacy with the Ministry of Health (MoH), which is responsible for health services in prisons and detention facility, on the need to assign appropriate levels of professional medical and dental staff to work in the spaces provided by the MoJ within detention facilities and prisons, as well as ensure medical equipment and supplies.

### *3.1.2 Torture and ill-treatment*

UNAMI continued to receive allegations directly from detainees and prisoners, but also on their behalf from their families, friends, and representatives, that they had been subjected to torture and ill-treatment while in detention. Nearly all such claims concerned torture and ill-treatment alleged to have occurred while they were in detention facilities under the authority of the MoI. Female detainees and prisoners interviewed by UNAMI also claimed to have suffered torture, violence and threats while in the custody of the MoI prior to their transfer to MoJ facilities. Many female detainees alleged that they had been detained in lieu of male family members, or had been arrested on charges of aiding and abetting or of withholding information related to crimes committed by male family members, particularly under the

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<sup>15</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry has actively followed up issues related to the physical conditions of prisons with the Ministry of Justice and other competent authorities. For instance, the MoJ informed the MoHR that there is a plan to decentralize women's detention centres by constructing facilities in local municipalities so as to ensure women detainees are held close to their families and to relieve overcrowding and poor sanitary conditions in Rusafa Women's Prison. The MoJ also stated that it is in the process of introducing rehabilitation and reintegration programmes for women and children in custody.

<sup>16</sup> According to the MoHR response to this report received on 15 May 2014, the programme of constructing and refurbishing prisons in line with international standards is progressing: a new contract has been issued for the construction of a new prison in Babil; reconstruction of Khan Bani Saad prison is 60 percent completed; Basra prison is 22 percent completed, and Diwaniya is 18 percent completed. It is hoped that issues of overcrowding and poor hygiene standards will be addressed when these projects are completed.

<sup>17</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry notes the problems regarding basic infrastructure and provision of health services in many detention facilities, and has undertaken liaison with the Ministry of Health to improve facilities in prisons by ensuring appropriate staffing and equipment, and with the MoJ and MoI on streamlined security procedures to permit the quick transfer of detainees and prisoners to hospitals in emergency situations.

<sup>18</sup> According to the MoHR response to this report received on 15 May 2014, the MoHR has made recommendations to the MoH to ensure medical staff are available 24 hours per day at Rusafa Women's prison along with increased staffing, medical equipment and specialists. The MoHR stated that there are now currently four full-time dentists on roster at Rusafa Women's prison to ensure the provision of dental services to the detainees.



Anti-Terrorism Law no. 13 of 2005. (For treatment of child detainees see 9.3, below).<sup>19</sup> In almost 50 per cent of cases monitored by UNAMI before the Basra criminal court, the defendants alleged that they had been subjected to torture or ill-treatment to extract confessions (see below).

Article 123 of the Iraqi Criminal Procedures Law no. 23 of 1971 requires the investigating magistrate to question the accused within 24 hours of arrest, while Coalition Provisional Authority (CPA) amendments to the law passed in 2003 require the investigating magistrate to inform the accused that she or he has a right to have an attorney present during questioning.<sup>20</sup> Normally, this should act as a valuable safeguard against torture of accused persons. However, testimony of detainees and prisoners and information obtained during trial monitoring by UNAMI indicates that CPA amendments to the Criminal Procedures Law are not respected, that rarely are accused persons informed of their right to remain silent or of their right to have an attorney present during questioning, particularly when detainees are in the custody of the MoI. Questioning of accused persons takes place without the presence of attorneys, and is frequently conducted by the investigating magistrates in the presence of police officers, who many detainees and prisoners alleged had subjected them to torture. In some cases, detainees and prisoners alleged that the torture or ill-treatment had been inflicted on them in the presence of the investigating magistrate.<sup>21</sup> Human rights groups presented information to UNAMI revealing that police investigators also circumvent the safeguard against torture by disregarding the requirement to present suspects to an investigative judge within 24 hours of arrest. Other detainees and prisoners alleged to UNAMI that they continued to be detained under the Anti-Terrorism Law no. 13 of 2005 for extensive periods of time after they had been forced to sign confessions so that any marks or injuries resulting from torture or abuse had healed before they were formally charged and transferred to MoJ facilities.<sup>22</sup>

UNAMI confirmed its findings with defence lawyers, judges and police inspectors, as well as other human rights organisations. Defence lawyers, police inspectors, and judicial sources, interviewed separately, estimated that police torture 90 per cent of criminal suspects in Basra, although the majority of victims would not be able to prove it. Human rights organisations indicated that this is a conservative estimate. According to defence lawyers, the problem stems from a general lack of police capacity to conduct effective investigations. Unable to produce material evidence, the police rely on confession

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<sup>19</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry has actively followed up on allegations by female detainees of mistreatment by actively monitoring and ensuring proper investigation through the Prison Reform Directorate of the MoJ and judicial authorities. The Ministry also regularly visits places of detention, and receives complaints of torture or abuse and refers cases to the prison administration and the judicial authorities for investigation.

<sup>20</sup> Article 123 was amended by CPA Memorandum 3 section 4(c) signed 18 June 2003 published in the Official Gazette issue 3978 of 17 August 2003. This added subsections (b) and (c) to article 123, which requires the investigating magistrate to inform the defendant prior to questioning that she or he has the right to remain silent and has the right to appoint an attorney or have a court appointed attorney to represent her/him; and that the questioning of the accused should not proceed whether he or she has indicated that she/he wants an attorney to be present during the questioning. Also note Memorandum 3, section 8, which expands the right of representation at trial beyond those accused of felonies to those accused of any crimes. Note also CPA Memorandum 3, section 5 which provides the right to be informed upon arrest of the right to remain silent and the right to an attorney.

<sup>21</sup> According to the MoHR response to this report received on 15 May 2014, Iraq became a Party to the Convention Against Torture in 2011, which signaled the seriousness with which the State views the issue. Furthermore, the Government formed a committee under the Chair of the MoHR and comprising representatives of judicial and government bodies that is preparing Iraq's first report to the Committee Against Torture pursuant to Article 19 of the Convention.

<sup>22</sup> According to the MoHR response to this report received on 15 May 2014, that is has noted in its regular reports concerns about delays in meeting with alleged victims of torture an abuse by investigating authorities – and that one reasons judges frequently dismiss claims of torture is owing to the long passage of time between the alleged incidents and appearance before the court (sometimes more than six months), during which time any marks or injuries have healed.

evidence obtained through torture. Furthermore, torture is a legacy issue; the Iraqi police “rely on old practices” deeply engrained in the institutional culture. An attempt has been made to improve the situation in the past year with the establishment of the Judicial Investigations Office (JIO). The JIO is a pilot project, functioning in some but not all areas of Basra city, whereby the judiciary takes responsibility for overseeing police investigations from the beginning. Defence lawyers believe the JIO has a positive impact and hope that it will be implemented in all areas of the country.

The findings obtained in Basra are consistent with allegations received by UNAMI from detainees across the country both before and during this reporting period. Torture and ill-treatment constitute a violation in contravention of the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to which Iraq is a Party, as well as peremptory norms of customary international law (*ius cogens*). Iraq must do all it can to take remedial action to prevent torture and ill-treatment and to ensure that all allegations of torture or ill-treatment are properly, independently and transparently investigated and, where such allegations are found to be substantiated, that the perpetrators are properly dealt with according to law and the victims appropriately cared for and compensated.

### 3.1.3 Other due process concerns

UNAMI interviewed detainees and prisoners who had been detained for periods of time beyond those prescribed by law. Many were detained under the Anti-Terrorism Law no. 13 of 2005; some of who alleged to UNAMI that they had been held for up to five years without charge of trial.<sup>23</sup> Other detainees had delays in having their cases heard by the courts, owing to backlogs and insufficient resources of the courts to address cases in a timely manner or from breakdowns in communication between the investigating magistrates, prosecutors and the courts.<sup>24</sup> UNAMI also interviewed a number of detainees whose cases had been discharged by the courts and who, although found not guilty, remained in detention for up to six months or more waiting to be released. In many such cases UNAMI found that judges frequently issue decisions making release subject to any pending or outstanding charges which can only be confirmed by the MOI. MoJ officials frequently voiced their concern to UNAMI that despite requesting the MoI to inform them of outstanding charges so that discharged inmates could be released, the MoI could take months to respond. Similarly some prisoners who had served their sentences were also frequently held beyond the expiry of their sentences while confirmation of any pending or outstanding charges was received from the MoI. In response, the MoJ Prison Reform Directorate informed UNAMI that it was conducting a thorough review of cases in order to release detainees who had remained in detention awaiting trial beyond lawfully prescribed limits, and where there was insufficient evidence to

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<sup>23</sup> Article 109B of the Iraqi Criminal Procedure Law no. 23 of 1971 permits a person charged with an offence that carries the death penalty (which includes persons charged under the Anti Terrorism Law no. 13 of 2005) to be held in detention until the investigation phase is completed, or until the final decision is issued by the court in relation to the charges. In other cases, article 109A and C limits detention of suspects to 15 day extendable periods which cannot exceed one quarter of the maximum sentence that can be handed down in relation to the offence for which the person has been detained, and in no case can the period of detention exceed 6 months. If detention longer than 6 months is required, an application must be made to the criminal court to approve it but in any case (except those falling under the Anti-Terrorism Law no.13 of 2005) the total period cannot exceed one quarter of the maximum sentence that can be handed down in relation to those charges. According to the MoHR response to this report received on 15 May 2014, the Ministry has noted that this provision does not meet international standards, particularly as required by the ICCPR and has recommended to the Government that the provision should be amended in line with international standards.

<sup>24</sup> According to the MoHR response to this report received on 15 May 2014, many delays in processing cases before the courts, and releasing detainees and prisoners is due to a lack of coordination in the administration between various Ministries and authorities, lack of adequate resources, and the security situation in Iraq. The Ministry actively follows up on all such cases that come to its attention during its regular monitoring visits.

go before the courts, or in cases where it was considered that the detainee had a case to answer, to prioritise such cases with prosecutors to ensure the trials were conducted or to release them where possible on bail. The MoJ also informed UNAMI that it was actively reviewing cases of detainees who had been discharged by the courts and who were waiting confirmation of outstanding or pending charges or those who had completed their sentences to ensure their release.

### **3.1.4 Corruption and the rule of law**

UNAMI has received a number of claims of corruption within the criminal justice system. A number of relatives of persons in detention had informed UNAMI that officials in charge of detention centres where their relatives were being detained (usually Ministry of Interior) that in order to ensure that the charges were dismissed they need to retain the services of a specific lawyer and pay the fee required – sometimes this fee is as high as 100,000 USD. In one instance a relative of a detainee brought a tape of a conversation recorded on a cellular phone allegedly with the Director of a particular prison requesting the relative to retain a particular lawyer for the fee requested to ensure the release of the detainee. UNAMI was unable to verify the authenticity of the tape in question, but it is consistent with a number of such claims made by relatives of detainees to UNAMI throughout the reporting period.

Basra Police Inspectors also revealed that they believe there is a high level of corruption that has a detrimental effect on law enforcement in the governorate. The inspectors described organized chains of systemic corruption affecting each Police Directorate in Basra and its municipalities. Low-level officers extort money from the public in the course of their duties, which they then pass up the chain of command. The ways in which low-level police extort money are manifold but include taking bribes to release detainees under investigation. Corruption is also another reason for the high prevalence of torture, which is used as an incentive for detainees and their family members to pay bribes to ensure release. It is extremely rare for a corruption case against a police officer to reach prosecution and when it does the courts have proved ineffective. Investigative judges in Basra have confirmed that this is the case. Many judges voiced their private concerns that the level of protection they receive is insufficient to counter security risks they run by investigating and prosecuting corruption of security force personnel.

## **3.2 Fair trial standards**

UNAMI continues to have concerns about the conduct of trials and the failure of the courts to adhere to fair trial standards.<sup>25</sup> UNAMI's direct monitoring of trials continued to find instances where the courts convicted accused persons on the sole evidence of the testimony of a secret informant, which remained untested,<sup>26</sup> or a confession by the accused, despite allegations that such confession had been extracted under torture or ill-treatment. Most such cases concerned persons charged with offences under the Anti-Terrorism Law no. 13 of 2005, but UNAMI observed other similar instances in trials involving charges under the Iraqi Criminal Code no. 111 of 1969.

During the reporting period UNAMI embarked on a trial monitoring project in southern Iraq to assess the judicial response to torture allegations. UNAMI monitored 21 trials from October to December during which 11 defendants in nine cases alleged that Iraqi police tortured them during the investigation. The trials monitored included murder, robbery, armed robbery and drug trafficking cases. In only one of the

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<sup>25</sup> According to the MoHR response to this report received on 15 May 2014, the Constitution of Iraq articles 19 and 37 and Iraqi law, including Iraqi Penal Code no. 111 of 1969, protects and guarantees fair trial standards and due process.

<sup>26</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry has made recommendations to the High judicial Council that convictions should not be handed down where the sole evidence is information by secret informants. The Ministry has also recommended stiffer penalties for persons making false accusations and the parliament introduced a law to ensure the penalties for false accusations with a maximum penalty of 10 years imprisonment (Law no. 15 of 2009).

cases, which UNAMI monitored on 3 November, was the defendant able to produce medical evidence to support the allegation of torture. Sometimes UNAMI was in the court to witness sentencing hearings following convictions based partly or solely on disputed confession evidence. On 22 December, for example, UNAMI witnessed a judge sentence a man to 15 years imprisonment for aggravated robbery. The judge had convicted the defendant partly on evidence of his confession despite the defendant's allegation that police had forced him to confess under torture. UNAMI also witnessed trials in which women defendants alleged that police investigators had tortured them in order to extract confessions from them.

The Iraqi justice system also suffers from a shortage of qualified and trained judges in some areas, particularly in more remote places. The total number of judges and prosecutors working in Thi-Qar governorate, for example, was around 100 during the period. As such, available judges sometimes had to process up to 60 cases a day. According to the Director of the Ministry of Human Rights (MoHR) in the governorate, this long-standing problem can only be solved by the High Judicial Council and the MoJ in Baghdad. The problem is exacerbated by the absence of notaries in Thi-Qar, meaning judges perform this function as well. UNAMI is concerned that overworked judges do not have time to sufficiently scrutinise each case. Investigative judges are also unable to apply scrutiny to all cases due to their heavy caseload. Investigative judges in Basra, for example, process between 30-100 cases a day. As such they rarely do more than rubber stamp the police investigation before transferring the case to trial. The problem also affects juvenile justice. On 26 August UNAMI met the investigative judge for the juvenile cases in Basra who reported his court covers three districts and processes up to 25 cases a day. The family protection court meanwhile, covers three districts and handles up to 60 cases a day.

### **3.3 Detention and rule of law in the Kurdistan Region**

The total number of detainees and convicted prisoners in the KR was 4,844 at the end of December, according to data provided by the KR authorities. Of these, 2,950 were pre-trial detainees, including 70 women and 170 juveniles. 1,894 were convicted prisoners, including 44 women and 50 juveniles.

From July to December UNAMI carried out 32 visits to prisons and detention centres under the authority of the MoI and MoLSA of the KRG. Some pre-trial detention facilities and prisons continued to suffer overcrowding and poor sanitary conditions, particularly the pre-trial detention facilities at Zakho, Chamchamal and Kalar. The Chamchamal and Zakho facilities do not have cells for female detainees. Instead females are detained in the police officers duty room. According to the KRG, in its response to this report received on 15 May 2014, the MoLSA (KRG) has been concentrating on building new facilities and new facilities for male prisoners in Erbil and Sulaimaniyah are almost complete. In terms of ensuring that these facilities are properly equipped, the KRG council of Ministers is in the process of issuing tenders. The KRG hopes that once the prisons development plan is completed the issue of overcrowding and poor sanitary conditions observed in some male prisons in Erbil and Sulaimaniyah will be resolved. MoLSA (KRG) has also commenced work on constructing a new Juvenile and Womens reformatory in Erbil – while the new facilities for Juveniles and Women in Dohuk and Sulaimaniyah is at the tendering stage. MoLSA also has a plan to increase the number of social workers and psychologists and to conduct training and capacity building programmes through international organisations specialised in prisons and reform processes.<sup>27</sup> The KRG also informed UNAMI that it is aware of the poor sanitary conditions in some pre-trial facilities in Erbil and Sulaimaniyah and through the MoI (KRG) it intends to

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<sup>27</sup> According to the KRG response to this report received on 15 May 2014, the new prison facilities in Erbil and Suleimaniyah each cost USD50 million and were completed in November 2013 but are in the process of being fitted out. A committee from the General Directorate of Social Reform is overseeing the tendering process. The KRG states that the new facilities will be in full compliance with international standards.

build new facilities in Erbil, Zakho, Akre, Soran and Kalar that will be in full compliance with international standards.

UNAMI conducted 213 interviews with detainees and prisoners, which revealed ongoing concerns about arbitrary detention and lack of due process. UNAMI noted long delays in bringing accused detainees to trial. Of the 213 pre-trial detainees interviewed, 108 had been held in pre-trial detention beyond the statutory limits. Ten of these had been in pre-trial detention for over two years and one had been held for over three years. Furthermore, more than 50 per cent of the 213 detainees interviewed had not had access to a lawyer or been informed of the charges against them. Some detainees had been denied family visits. KR authorities justify such detentions on the basis that the KR Anti-Terrorism Law had not been enacted when these detainees allegedly committed terrorist acts. UNAMI has often highlighted the unlawful nature of these detentions and advocated that irrespective of whether the KR Anti-Terrorism law had been enacted at the time of these alleged offences, those detained should be prosecuted under the criminal law applicable at the time and if convicted time served should be taken into account, or if there is no evidence substantiating their charge and trial under the criminal law applicable at the time of the alleged offences, then they should be immediately released and compensated. In its response to this report received on 15 May 2014, the KRG stated that there are no detainees held contrary to law in the KR, since the Criminal Procedure Code no. 23 of 1971 (as amended in the KR), articles 109 and 110 prohibit the court from releasing a defendant on bail where she or he is charged with a crime that carries the death penalty or is charged with terrorism or if there is a risk that of the flight of the accused where she/he comes from outside the region, etc. In this regards, persons accused of these crimes will be held on remand until their cases are finalised. The KRG noted that there has been some delays in relation to some cases, and the Judicial Council has established committees in all provinces of the reasons to review such cases and resolve them.

Ninety of the detainees interviewed made allegations of abuse, mistreatment and torture during pre-trial investigations. The detainees implicated police investigators as well as Asayish security officers. The problem appears to be particularly acute in rural Asayish stations. UNAMI remained engaged in constructive dialogue with KRG on such reports and noted authorities' openness to legal and institutional reform. UNAMI also continued implementing a targeted capacity building programme consisting of 12 training workshops for 150 Asayish and 150 police officers, with MoI collaboration. In responding to this report, the KRG insisted that torture is against the law and that all allegations of torture or abuse by officials are rigorously investigated and if substantiated are held accountable according to law. The KRG noted that since December 2008 eight security force personal have been charged and convicted for abuse of detainees or prisoners.

#### **4. Death Penalty**

The Government of Iraq continued to execute condemned prisoners, despite repeated calls from the High Commissioner for Human Rights, the European Union (EU), and other members of the international community to implement a moratorium on the death penalty with a view to its abolition in accordance with UN General Assembly resolutions 62/149 (2007), 63/168 (2009), 65/205 (2010) and 67/176 (2012).<sup>28</sup>

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<sup>28</sup> According to the MoHR response to this report received on 15 May 2014, Iraq retains the death penalty in response to a number of factors, including the legacy of the former dictatorial regime and the phenomenon of terrorism, which it regards as the most serious of crimes given its detrimental impact on Iraqi civilians, and the demands of the Iraqi people for justice and to deter those who may consider perpetrating acts of terrorism. Furthermore, the Ministry has formed a ministerial committee to review current legislation and to make

According to UNAMI's figures, the Government of Iraq executed 124 prisoners (including three women) during the second half of 2013. This raised the total number of people executed in Iraq in 2013 to 177 people. The executions sometimes took place in batches. On 19 August, for example 17 prisoners were executed. On 8 and 9 of October, 42 prisoners were executed. All had been convicted under anti-terrorism legislation. UNAMI issued a statement, strongly condemning these executions and reiterating its call on the Government of Iraq to adopt a moratorium on the implementation of all death sentences, in accordance with UN General Assembly resolutions mentioned.<sup>29</sup>

On 31 of December 2013, there were reported to be over 1000 prisoners on death row, consisting of prisoners who had been sentenced to death at first instance, or whose convictions and death sentences had been upheld on final appeal, or who were awaiting the Republic Decree by the Iraqi Presidency ordering implementation of the sentence, or who were awaiting execution after the issuance of the Republic Decree.

UNAMI has serious concerns about the implementation of the death penalty in Iraq – particularly in the light of persistent weaknesses in the administration of justice, including failures to respect due process and to adhere to fair trial standards, use of torture to extract confessions and reliance on testimony of secret informants as the sole evidence on which to found convictions.<sup>30</sup> UNAMI monitored first instance trial proceedings in four capital cases from October to December, in which the defendants alleged that police tortured them into signing confessions. In none of these cases did the presiding judges order investigations into the allegations. In two of these cases the defendants alleged that the policemen who had tortured them were present when they were questioned by the investigating magistrate.

Monitoring also revealed due process concerns which place defendants in capital cases at serious risk of miscarriage of justice, particularly limitations on the right of the accused to prepare an adequate defence. Defence lawyers defending capital cases have stated to UNAMI that it is particularly difficult to work on such cases due to systematic obstruction by the police or prosecutors. Although article 123 of the Criminal Procedure Law no. 23 of 1971 ensures the right of accused persons to have legal counsel present during investigation and questioning, defence lawyers interviewed by UNAMI claimed that police frequently denied them the opportunity to be present during investigation and questioning by investigating magistrates, or to meet with their clients before they go to trial. As a result many defence lawyers complained that their only opportunity to meet their clients in capital cases is either after the investigation phase has been concluded and charges have been laid, or at the trial itself. Court monitoring has also revealed concerns about the level of judicial scrutiny applied to capital cases. Shortage of judges in many areas means cases are processed extremely quickly leaving no time for detailed analysis of evidence by the defence counsel or by the judges presiding over the cases.

Of particular concern were the cases of two death row prisoners who may have been underage when they committed the crimes for which they have been convicted and sentenced to death. UNAMI has referred these cases to the Government of Iraq and to the President of the Court of Cassation. In one case the Court of Cassation ignored a birth certificate issued by the prisoner's country of nationality in favour of an age assessment carried out by a court appointed medical doctor – despite the fact that such age assessment is notoriously unreliable and subjective. The Court upheld the conviction and death sentence.

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recommendations to ensure that the application of the death penalty is limited to the most serious of crimes and its application is in line with international standards.

<sup>29</sup> UNAMI, Press Release, 13 October 2013, available online <

[http://www.uniraq.org/index.php?option=com\\_k2&view=item&id=1249:unami-urges-for-an-immediate-suspension-of-all-pending-death-sentences&Itemid=605&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&id=1249:unami-urges-for-an-immediate-suspension-of-all-pending-death-sentences&Itemid=605&lang=en)>

<sup>30</sup> According to the MoHR response to this report received on 15 May 2014, Iraqi criminal procedures operate in a manner that is open, transparent and in conformity with international standards – and in light of the phenomenon of terrorism that Iraq faces it is not possible to suspend application of the death penalty to such cases.

In the other case, UNAMI was informed in November by the MoJ that the case was before the Court of Cassation. By the end of the reporting period, a final decision had not been handed down by the Court.

#### **4.1 Death penalty in the Kurdistan Region**

The KRG continues to practice an unofficial moratorium on the death penalty and no executions took place during the second half of 2013. UNAMI continued to undertake advocacy with the KRG on the formalisation of the moratorium and abolition of the death penalty.

## **5. Rights of Women**

### **5.1 Legal and policy framework**

Violence against women and other factors detrimental to the rights of women remains of serious concern to UNAMI. In UNAMI's view there is urgent need for greater legislative and other protections for women. Government efforts to protect women and girls from violence remained sporadic and inconsistent.<sup>31</sup> The Council of Ministers took a positive step on 7 March 2013 when it endorsed the National Strategy on Combating Violence against Women. By the end of December, there had been no concrete developments to implement the strategy. The inter-ministerial committee responsible for implementation was yet to present a roadmap. Instead individual ministries were working to develop specific plans on areas of the strategy corresponding with their mandates, with United Nations Population Fund (UNFPA) and United Nations Development Programme (UNDP) assistance.<sup>32</sup>

Closed door discussions about the draft Family Protection Bill were continuing in the Council of Representatives (CoR) at the end of the reporting period and UNAMI was not able to obtain information as to whether the bill had been amended in light of UNAMI's concerns. UNAMI continues to advocate with the Government of Iraq to ensure the Bill and other laws are amended to reflect international standards and to comply with Iraq's international and constitutional obligations to ensure the protection of the rights of women and their equality under the law.<sup>33</sup>

UNAMI reviewed an earlier draft of the Family Protection Bill before it went before the CoR, however, and expressed concern about weaknesses in the proposed law. Of most concern, the bill did not contain a definition of domestic violence, nor did it identify which acts were criminalised. It was limited to violence within families, and it failed to mention underage marriage, forced marriage, female genital mutilation (FGM) and honour-killings, as well as deprivation of other rights including access to healthcare and education. The Bill also reinforced the notion that domestic violence is a family issue as opposed to a legal issue, particularly in the manner in which it framed the 'family support committees', which appears aimed at reinforcing the traditional view of women's role in society by focusing on 'reconciliation' as

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<sup>31</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry has made consistent efforts in promoting the respect and protection of women's rights, and in partnership with the Ministry for the Status of Women. The Ministry has made recommendations for the amendment of the Iraqi Penal Code no. 111 of 1969 to eliminate those clauses, which permit honour as a grounds for mitigation for crimes committed against women and family members.

<sup>32</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry of State for Women's Affairs had undertaken coordination with all relevant Ministries for activation of the Strategy, and in coordination with the MoHR has prepared a technical plan for implementation of the strategy, which was provided to all relevant ministries on 03 April 2014.

<sup>33</sup> According to the MoHR response to this report received on 15 May 2014, the Bill is not before the Council of Representatives but is with the State Council, and that the text of the Bill is currently under review by a committee formed from the MoHR, the Ministry of State for Women's Affairs, MoI, MoLSA, and the High Judicial Council.

opposed to protection. Furthermore, the bill did not allow public prosecution for domestic violence, which it considers a private offence for which prosecution can only be instigated by the victim or her family or legal guardian, not the police.

Another concern is that the Bill omitted specific punishments for acts of violence perpetrated against women and other family members. It refers instead to the Iraqi Criminal Code no. 111 of 1969 and the Criminal Procedure Law no. 23 of 1971, but these provisions would only be applied at the discretion of the judge hearing a complaint. It should be noted that the Criminal Code and the Criminal Procedures Law still contain provisions, which discriminate against women. For example, the Criminal Code permits husbands to punish their wives without fear of prosecution,<sup>34</sup> grants exemptions from punishment if the perpetrator of sexual assault subsequently marries the victim,<sup>35</sup> and permits the ‘protection of honour’ as a mitigating factor for murder and other acts of violence committed against family members.<sup>36</sup>

In October, the MoJ announced completion of two draft bills on personal status and justice in accordance with religious jurisprudence of the *Jaafari* school.<sup>37</sup> Women’s rights organisations strongly criticized the draft legislation, warning that it would sweep away hard won gains for women’s rights in Iraq. On 5 December, the Iraqi Women’s Network, which represents around 30 national NGOs, issued a joint statement declaring that this *shari’a* based legislation would authorise early marriage, polygamy and other practices in contravention of Iraq’s obligations under both the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). The statement also warned that such sect-based legislation would further widen sectarian divisions in the country as it would effectively create different classes of women whose rights, privileges and obligations would be different according to their religious or sectarian background.

### 5.1.1 *Safe houses and shelters*

A priority issue highlighted in the National Strategy on Combatting Violence against Women is provision of safe houses and shelters for victims of domestic violence. At the end of the reporting period, the draft policy for regulation, management and resourcing shelters, developed with the UNDP, remained pending for review by the MoLSA. As such, women victims of violence still have nowhere to seek sanctuary and to ensure their rights are protected. At the end of the reporting period, up to 68 homeless women, many of who had fled violence at home, were being housed in Baghdad prisons. UNAMI also tracked cases in Kirkuk and southern Iraq in which women victims of violence were housed in prisons with convicted prisoners, as these were the only spaces where the authorities could effectively protect them. The Family Protection Unit (FPU) in Basra also revealed that women victims of violence without relatives to house and protect them often end up living on the street. The problem is compounded by FPU’s own lack of suitable premises and a chronic shortage of qualified female police officers. For example, the FPU in Kirkuk had four female police officers during the reporting period. Only two female police officers worked at the FPU in Basra meanwhile, and not in a professional capacity.

### 5.1.2 *‘Honour’ killings*

Many interlocutors believe there is a high prevalence of honour killing in Iraq and that most are concealed within the families that commit them. UNAMI’s research suggests that families attempting to cover up

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<sup>34</sup> Article 41(1) Iraqi Criminal Code

<sup>35</sup> Article 398 Iraqi Penal Code

<sup>36</sup> Article 409 Iraqi Penal Code

<sup>37</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry had completed a review of the draft law and recommended action in relation to clarifying the meaning and application of article 41 of the Constitution of Iraq and a comprehensive review of the Personal Status Law no. 188 of 1959 by relevant legal committees. The Ministry also noted that the Bill was returned to the Council of Ministers following its first reading in the council of Representatives, requiring revision of the text.



honour crimes are often assisted to some extent by the authorities. Furthermore, the authorities' attitudes to honour crimes reinforce perceptions held by segments of Iraqi society that they are acceptable and should not be punished by law. The most immediate problem is the statutory provision article 409 of the Iraqi Criminal Code no. 111 of 1969 that permits the 'protection of honour' as mitigation in cases involving the murder of family members. UNAMI has called on the Government to repeal this section of the Criminal Code as a matter of urgency in order to comply with its international and constitutional legal obligations.

UNAMI undertook monitoring of a number of honour killing cases. For example, on 24 July a 24 year old girl was burned to death in the bathroom of her house in Kirkuk. The killing was reported as an accident by the girl's brother, an intelligence officer. On 19 August, police found the body of a young woman with severe head and neck wounds in Kirkuk. Another 21 year old woman was burned to death on 22 September. Her father told police she had committed suicide. On 8 October a young woman aged between 17 and 20 was found handcuffed and beheaded in Kirkuk. Her body also showed signs of torture. On 12 November a woman was admitted to Azady Hospital in Kirkuk having reportedly shot herself with a machine gun due to family problems. Authorities accepted this version of events and did not pursue the matter further. On 19 November a young man was arrested in Kirkuk for killing his sister. He did not appear to believe he had done anything wrong and described his crime to police as "cleansing of my honour". In none of these cases did the authorities open a proper forensic investigation into the deaths. Only in two cases in Debis District, Kirkuk, in which women were burned to death in December were the alleged perpetrators, in one case the woman's husband, arrested and criminal proceedings initiated.

UNAMI also monitored official responses to honour killings. One case involved a 17 year old female secondary school student who reportedly shot herself by mistake on 1 December in Sayed Dakheel sub district of Nassiriyah, Thi-Qar governorate. A police source quoted in the media carried the official line that she shot and killed herself while playing with her father's pistol. Other sources in the community informed UNAMI that the girl in fact had been killed by her brother for reasons of honour and the family was covering up for him. The police showed no will to launch an effective investigation into the death.

The courts have also been unwilling to take action in honour crimes, as evidenced by a trial, which UNAMI monitored in Basra on 29 December. The defendant was a young man who admitted attempting to murder his sister "for reasons of honour". The defendant admitted shooting his sister and hitting her with a sword and an iron bar. Firstly, the prosecutor and trial judge amended the original charge to a lesser offence. Then the trial judge sentenced the defendant to a year's imprisonment, which he then suspended, meaning in effect that the perpetrator was discharged without punishment. The authorities' response in such cases serves to underline wider societal attitudes, which accepts 'honour' as a justification for the murder of family members.

### *5.1.3 Targeting of women in 'moral' crimes*

In its previous report, UNAMI highlighted instances of women being threatened and sometimes killed on 'moral' grounds. Seven women were killed in two such attacks in southern Iraq in June 2013. The trend continued into July and August and was not confined to the south. Three women were killed by suspected militiamen in al-Qibila, eastern Basra city, on 2 July. UNAMI confirmed the killings with the medical authorities, who reported that the women had been killed because they were sex-workers, although it is unclear how this was ascertained. On 9 July gunmen stormed a house in Mosul and killed three women. On 10 July, gunmen attacked a house in Zayyona area, Baghdad, killing another three women. A similar attack occurred on 18 July in Ur district, Baghdad, in which three more women were killed. On 3 August gunmen killed three women inside a house in Buhriz district, Diyala Governorate. Police sources in Basra also reported the killing of a woman and her child on moral grounds in al-Faw district in early August, blaming a militia group for the attack. On 31 October, in Baghdad, police found bodies of three women who had been shot. On 29 November, police found the bodies of three women in Baghdad. They had been

tortured and shot 'execution style'. The following day gunmen attacked a house in Doura district of Baghdad, killing two women and two children.

The suspected perpetrators in each of these cases were Islamist militia groups who perceived the women to have transgressed how they view women should behave. According to Iraqi NGOs, extremist groups killed at least 60 women on 'moral grounds' in 2013. UNAMI's attempts to assess the authorities' response to these crimes have been hampered by an official reluctance to engage on the issue. UNAMI is not aware of a single successful prosecution for crimes of this kind.

#### **5.1.4 Trafficking**

During the reporting period UNAMI continued to monitor reports of the alleged trafficking and sexual exploitation of women and girls. Two cases in Kirkuk suggested that the authorities are failing to tackle the threat posed to young women and girls by traffickers, who it is alleged by some sources may have connections with local law enforcement officials. On 22 July UNAMI interviewed a 17 year old girl who explained how she had been trafficked three years previously. She had lost her way in a crowded part of southern Baghdad and a woman she did not know had offered to help her. The girl fell asleep in the woman's car but awoke at a Kirkuk checkpoint, where she was arrested for having no ID. She was detained for around three months and then released. As she left the police station, another woman approached her and offered her shelter. The shelter turned out to be a large brothel in which runaway girls were forced to work. Questions remain as to why the police would have released the girl, who was still a minor, with no ID and without the presence of a guardian and how it was possible that the brothel-keeper happened to know the details of the girl's release. In a more recent case, sources within Kirkuk police informed UNAMI that a teenage girl had been arrested at a checkpoint on 16 July without ID. The girl was sent to Kirkuk Detention Centre but was no longer there by mid-August. UNAMI had been unable to locate the girl by the end of the reporting period and the authorities were not able to explain what had happened to her.

## **5.2 Rights of women living in the Kurdistan Region**

The KRG made further progress in implementing the Domestic Violence Law (8/2011), in particular articles 3 and 6 on the establishment of special police investigation units and article 5 on the establishment of reconciliation committees.

New police investigation units working under the Directorate of Combating Violence against Women (DCVAW) have been established in all six areas of the KR at district and sub-district levels. By the end of December, most of the 27 investigation units were operational. The reconciliation committee became operational on 8 December in Erbil. Similar committees had already been established in Dohuk, Garmiyan, Sulaimaniyah and Rapareen areas. The investigative judge for domestic violence in Erbil revealed that 200 million IQD was allocated from the regional budget for the reconciliation committees.

According to official figures released by the DCVAW, the police and judiciary received 2,353 allegations of violence against women from July to November. The highest number of incidents were reported in Erbil (699), followed by Dohuk (664), and Sulaimaniyah (534). The incidents included 2,141 cases of physical abuse, 132 cases of self-immolation and 46 cases of sexual abuse. In addition, 23 women were reported to have been murdered.<sup>38</sup> DCVAW could not provide details the number of arrests and

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<sup>38</sup> The KRG, in its response to this report received on 15 May 2014, informed UNAMI that its statistics from the Directorate of Police (KR) showed there had been a drop in the number of women murdered in the KR from 2012 (when 100 were murdered) compared with 2013, when 94 were murdered. There was also a drop of women who allegedly committed suicide from 100 in 2012, to 80 in 2013.

prosecutions carried out. UNAMI is concerned about the high rates of self-immolation reported, and has requested urgent action to investigate such cases to ensure that no crime was committed in connection to them. In addition, UNAMI has called on the KRG to examine the root causes as to why women might want to self-harm and to develop policies to address these as well as ensuring access to appropriate support services for women who may be at risk.

UNAMI is also concerned that no visible progress was made by the KRG towards implementing the National Strategy of Combating Violence against Women, developed by the High Council of Women Affairs (HCWA) and approved by the Council of Ministers on 25 November 2012. Also pending is the adoption by Parliament of the National Strategy of Development of Women Status in the Kurdistan Region.

The situation of women's shelters in the KR remained largely unchanged during the reporting period. The KRG draft shelter policy, expected to set the minimum standards for shelters, was still awaiting approval by the Council of Ministers. According to the Government, there were 60 women in MoLSA shelters as at 31 December: 29 in Erbil, 16 in Dohuk and 15 in Sulaimaniyah. The Patriotic Union of Kurdistan (PUK) runs a private shelter in Sulaimaniyah. UNAMI conducted a mapping exercise of the shelters from September to November. It shared its recommendations for improving the shelters, including appointing appropriately trained and qualified social workers with MoLSA. According to the KRG, the shelter in Sulaimaniyah is in good condition and houses 40 women; in Erbil the shelter is a former nursing home that has been converted and renovated, and there is a new shelter under construction in Dohuk. A new shelter was opened at end of 2013 in Kalar in Garmyan district which is currently housed in a rented building. Women seeking protection in this shelter are permitted to stay for 72 hours, and if their case is not resolved in this time, they are transferred to the shelter in Sulaimaniyah. The KRG stated that social, medical and legal support is available in all shelters. The KRG did note, however, that there have been delays in officially signing off on the KR shelter policy which is still before the Council of Ministers (KR).

There were 131 women in detention in the KR's three women's prisons in Erbil, Sulaimaniyah and Dohuk at the end of December. UNAMI frequently monitored the facilities and found that the conditions were good. In Erbil and Sulaimaniyah, all detainees (apart from those sentenced to death) benefit from vocational training or formal education. In Dohuk only the women in pre-trial detention had access to educational opportunities but MoLSA plans to begin providing convicted women with vocational trainings on computer skills, sewing, and embroidery from early 2014. On 3 December, MoLSA issued an official order to establish nurseries in all the reformatories for infants who are with their mothers in prison.

## **6. Rights of Children and Youth**

### **6.1 Armed violence and children**

Children have not been spared by the violence in Iraq during the reporting period. The use of indiscriminate tactics by armed groups, such as IEDs left in vehicles or planted to explode at a later time in public spaces, such as markets, mosques, funerals and places of pilgrimage killed and injured children as well as adults. During the reporting period, the CTFMR on grave violations against children under United Nations Security Council Resolution 1612 received 157 reports of incidents that resulted in the killing and/or maiming of children. The CTFMR was able to verify 128 of these incidents. These attacks killed or injured at least 158 children: 26 girls, 124 boys and eight whose gender is unknown. At least 406 children were left maimed or severely wounded; 41 girls and 217 boys, with 148 whose gender is unknown. According to the MoHR, in 2013 the total number of children killed was 335 while a further 1326 were injured – while 220 were killed and 840 were wounded between July and December 2013.

Examples of attacks affecting children include an IED explosion on 15 July in Samarra district, Salahiddin governorate, that targeted family gatherings along the Tigris river and which killed a 10 year-old boy and injured four others aged 12 to 17 years. In another incident on 13 September, six boys were killed and another 16 injured when two IEDs exploded inside Abu al-Qassim mosque in Ba'qouba district, Diyala governorate. The boys were between 5 and 17 years old. Three girls and two boys were killed and eight girls and 13 boys were injured on 17 October, when a truck filled with explosives targeted an IDP compound for displaced Shabak people in Hamdaniya district, Ninewa governorate. The children were between 4 and 15 years old. On 10 December four boys aged 14 and 17 years were killed by two IEDs targeting a funeral in Ba'qouba district, Diyala governorate.

Children or places where children usually gather were also reportedly targeted by armed insurgent and terrorist groups. The CTFMR registered 12 attacks against schools and education staff during the reporting period. The worst attack occurred on 6 October in Qabak Turkman village, Tala'far district, Ninewa governorate, when a truck parked in a primary school playground exploded killing eight primary school children and injuring 148 children and teachers. There was another IED attack on a school in Tuz Khormato district of Salahiddin governorate on 21 August, which injured nine adults as the children were on summer holiday. Prior to this attack, armed insurgent and terrorist groups had been threatening violence against Turkmen Shi'a schools in Tuz Khormato district of Salahiddin unless they close down.

There was an increase in reported cases of abductions of children, possibly carried out with the intention of raising finances for the activities of armed insurgent and terrorist groups. Due to the sensitivity of the cases and the fact that most incidents were not reported to the police, it remained difficult to document these incidents. The CTFMR was able to verify one abduction during the reporting period. On 28 November, unknown men abducted the 10 year-old son of the Head of the Wassit Governorate Human Rights Committee. His dead body was found with torture signs two days later in Kut district, Wassit governorate.

As mentioned above, UNAMI appreciates that the Government of Iraq faces considerable difficulties confronting armed insurgent and terrorist violence, but remains extremely concerned about the toll on children. UNAMI urges the Government to establish a formal mechanism for child protection and information-sharing with the United Nations CTFMR on grave violations against children in order to effectively monitor the impact of armed violence and terrorism on children and to develop proactive policies aimed at enhancing their protection.<sup>39</sup>

### *6.1.1 Disruption to education*

In addition to deliberate attacks on schools, UNAMI noted a growing trend of threats against education personnel during the reporting period. For example, in mid-December flyers were distributed in Diyala governorate threatening primary and secondary school teachers of English. Deteriorating security and ongoing violence also affected overall access to education. Even when not directly targeted, school facilities have been seriously damaged by IEDs and crossfire, while school children have sometimes been prevented from attending classes. For example, armed insurgent and terrorist groups attacked the Federal Intelligence Investigation Directorate in Kirkuk city on 4 December using a SVBIED and three other suicide bombers. Ten people were killed and at least 109 injured. The building was in close vicinity of four schools; Al-Taakhy Industrial Secondary School, Chakh Private Secondary School for Girls, Al-Ezdihar Secondary School for Girls and a primary school. School staff had to evacuate the schoolchildren in the midst of the 12 hour gun battle between security forces and armed insurgents which followed the explosions. The United Nations International Emergency Children's Fund (UNICEF) has also highlighted

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<sup>39</sup> According to the MoHR response to this report received on 15 May 2014, the Government is in the process of developing a plan to enhance the protection of children from armed violence, terrorism and other forms of physical, psychological and sexual violence and to enhance respect for the rights of children in conflict with the law.

the increasing insecurity as a major factor impacting access to education in Iraq, especially where children live far from their schools, as parents are reluctant to let them travel long distances.

### **6.1.2 Detention and torture**

UNAMI continues to have serious concerns with regard to the treatment of children subject to the criminal justice system, in particular those facing charges connected with terrorism. Iraqi authorities confirmed that in December 2013 there were 391 children, including 18 girls, in detention facilities either charged with or convicted of offences under article 4 of the Anti-Terrorism Law no. 13 of 2005.

There is also evidence that police investigators torture children, as they do adults, in order to force them to confess to crimes. During the reporting period, UNAMI interviewed 16 juveniles at Basra Central Prison. While they claimed they were not mistreated by prison staff, each of the children alleged that police had tortured them to force them to confess during the investigation stage of their cases. Security concerns prevented similar visits to juvenile detention centres elsewhere in Iraq.

Furthermore, there remains a lack of alternatives to detention for children in conflict with the law. UNAMI has also noted that physical conditions in the children's detention centres continue to be poor, lacking basic infrastructure, suffering poor hygiene and ventilation, as well as quality of food, water and medical care. Children, particularly girls, are frequently detained along with adults and do not have access to education and appropriate psycho-social or specialised assistance appropriate for children.<sup>40</sup>

### **6.1.3 Legislative gaps**

In previous reports UNAMI has highlighted gaps in the legislative protection of children including limited bail provisions for children accused of crimes. For instance, Article 407 of the Iraqi Criminal Code no. 111 of 1969 contains special provisions for mothers others who kill new born babies "for reasons of honour".<sup>41</sup> The article prescribes that whoever is convicted of this crime can only face a sentence of between 12 months and ten years in prison. Pregnancies out of wedlock are often disguised, and new born babies disposed of, abandoned alive, or killed. One case monitored by UNAMI involved the killing of a baby boy, no more than a few days old, whose body was discovered on 8 December in wasteland in Basra. Authorities were unable to identify the child's parents, but previous similar cases point to the possibility of an honour crime.

## **6.2 Rights of children in the Kurdistan Region**

UNAMI continued to conduct regular monitoring visits to the MoLSA run juvenile reformatories in Erbil, Sulaimaniyah and Dohuk and to the juvenile section at Zakho Detention Centre, managed by the MoI. By the end of the reporting period, the total number of juveniles in the three MoLSA facilities was 167. The detention conditions in Erbil and Sulaimaniyah reformatories, as well as the Zakho facility in Dohuk do not comply with international standards. Some detainees are not provided with beds and sleep on the floor. The facilities have inadequate number of cells to separate juveniles with special needs from others and appropriate medical care is often unavailable. On the other hand the Dohuk juvenile reformatory does meet international standards in terms of accommodation and treatment. UNAMI received consistent allegations of the ill-treatment of juveniles as punishment for misbehaviour, such as engaging in fights with other inmates. Several juveniles at the Sulaimaniyah reformatory and the Zakho detention claimed

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<sup>40</sup> According to the MoHR response to this report received on 15 May 2014, the Juvenile Welfare Act No. 76 of 1983 sets the age of criminal liability at nine years and also requires the referral of cases of juveniles to the juvenile court for conduct of investigation and trial.

<sup>41</sup> According to the MoHR response to this report received on 15 May 2014, the Ministry noted that Iraq is a conservative society where traditional practices remain strong, but also the Ministry is working with the judicial authorities on recommendations for amendment of this provision.

that they were subjected to isolation as a disciplinary measure for even minor incidents for periods ranging from half a day to two months. The solitary cells in Sulaimaniyah reformatory have no artificial light or heating.

UNAMI urges the KRG to adopt the proposed regional Child Protection Law submitted to the KR Parliament early this year in order to strengthen the legal framework for children's rights in the region. In response to this report received on 15 May 2014, the KRG informed UNAMI that a draft Law on Child Protection has been drafted in consultation with UNICEF and has been submitted to the Council of Ministers for approval and submission to the KR Parliament in its next session. MoLSA (KRG) has also established a specialised unit to examine the social, psychological, educational and economic situation of children who are orphans or from divorced parents. Additionally, MoLSA has opened three centres for children with autism in Erbil, Sulaimaniyah and Dohuk.

According to the Ministry of Culture (KRG) there are eight directorates specialised in promoting children's participation in cultural activities, two offices devoted to publishing materials for children, and it is planned to open a TV channel for children ("ZARO") in the KR in 2014.

## **7. Rights of Religious, Ethnic and Other Groups**

### **7.1 Violence against members of diverse ethnic, cultural and religious groups**

Violence against Iraq's diverse religious, ethnic and cultural groups increased from July to December 2013. Among the worst hit was the Turkmen Shi'a community of Kirkuk and Salahiddin governorates. Around half of those killed were targeted with IEDs and VBIEDs. Most attacks occurred in the Tuz Khormato district east of Tikrit where many of the Turkmen community are located. UNAMI recorded eight IED/VBIED/BBIED attacks during the six month period, killing 30 Turkmen civilians and injuring 126. On 23 November, for example, a marketplace bakery in Akso, a Turkmen neighbourhood of Tuz Khormato, was targeted by two IEDs and a suicide bomber that killed ten civilians and injured 45. Turkmen civilians were also ambushed on the highway and killed with small arms fire. Turkmen Shi'a were also the victims of kidnapping, including two Turkmen students abducted on the Tuz Khormato – Dour road as they returned from college on 21 November. They remained unaccounted for at the end of December. The kidnapping followed anonymous threats against Turkmen students. On 17 December unidentified gunmen fired on a bus carrying Turkmen Shi'a students from Tikrit University, causing serious injury to one of them.

Many attacks targeted members of the Shi'a community. On 25 July, 25 unidentified gunmen set up a fake checkpoint near Sulaiman Bek on the Kirkuk – Baghdad road. They checked IDs of truck drivers, singling out Shi'a, who were forced from their cars and shot dead. Six Shi'a pilgrims from Nassiriyah were gunned down by unknown assailants with automatic weapons as they made their way to Imami Alaskaran in Samara district on 26 October. Shi'a shrines and mosques were also attacked. For instance, on 23 August unidentified attackers destroyed the Sheikh Ahmed al-Tayyar religious shrine in the centre of Tuz with an IED located opposite to the building of Tuz Khormato local administration in Salahiddin governorate. Other attacks took place during Shi'a religious ceremonies, particularly Ashura in November. On 11 November, a house was targeted with two IEDs. The house owner had previously received anonymous warnings not to display pictures of Imam Hussein.

Attacks caused many people to be displaced from the area. UNAMI confirmed that over 20 Kurdish households moved from Tuz Khormato to Kirkuk, with others displaced to Kalar, Sule and Erbil. Numbers of displaced Turkmen are more difficult to establish, due to conflicting reports. On 25 June the Government of Iraq established a committee headed by Deputy Prime Minister Shahrستاني in response to the violence. The Committee visited Tuz Khormato district, promised compensation to the victims and announced that a special battalion composed of Turkmen Shi'a would be established to protect the area.

The Committee also promised to enhance security in Tuz by increasing the police and army deployment. The establishment of a Turkmen Shi'a protection unit did not materialise after local authorities in Tuz Khormato and Salahiddin opposed the establishment of such an ethnic specific force. Early in the reporting period the Iraqi Minister for Youth and Sports declared that 1,130 Turkmen Shi'a families would receive compensation and that 600 Turkmen Shi'a had been recruited into the National Police, as well as 300 in Sahwa forces, to provide additional protection in Tuz.

Like IED attacks, targeted killings increased in southern Iraq during the second half of the year, reaching levels unseen since 2008. The victims were both high profile Sunnis and, in apparent contrast to the sectarian killings of 2008, ordinary Sunni people. The exact number of killings is unknown as the media and security forces went into an information shutdown. Basra authorities concede that between 6 – 20 September, 22 Sunnis died in a spate of targeted killings in Basra and Nassiriyah, a figure confirmed by the Basra Sunni Endowment. Other sources have estimated the numbers of those killed to have been much higher. For example, UNAMI interviewed a witness to a sectarian killing which occurred on 23 September, that went unreported by both the authorities and the media. On this occasion a car carrying armed men passed through a Government checkpoint before shooting a local Sunni man dead in al-Zubair. These targeted sectarian killings diminished in October and November, but inter-community tensions remained high, partly due to the kidnapping of two prominent Sunni sheikhs by men in Iraq Security Force uniforms on 26 October. The sheikhs' mutilated corpses were found in Basra on 26 November. This prompted the Speaker of the CoR to visit Basra as Head of a Parliamentary delegation to mourn publicly with members of the Ghamen tribe, where they reinforced a message for respecting diversity and promised that the perpetrators would be brought to justice. At the end of the reporting period, no arrests had been made in relation to these murders.

Members of the Sunni community in Basra also reported receiving anonymous death threats in September and October. Examples obtained by UNAMI spoke of revenge for the killing of Shi'a in Ninewa governorate and other vilification of the Sunni community. The letters were signed by a group calling itself the 'Brigade supporters of Imam Mahdi'. In early September, the Basra Sunni Endowment called upon the Government to provide increased protection to Sunni living in the region and denounced the assassination of members of their community. UNAMI followed up with the Office in command of Basra Area Operations Command Commander, who claimed to be doing all he could.

In protest at the killings, the Basra Sunni Endowment ordered the closure of all Sunni Mosques in Basra from 16-23 September, until the National Director for the Sunni Endowment came to Basra from Baghdad and ordered that the mosques be reopened. Fear of further attacks caused the Sunni community to live under self-imposed curfew and sparked the first large-scale displacement of Sunnis from Basra since 2008. The Head of the Sunni Endowment later estimated that 160 families had left. Sunnis also displaced from Nassiriyah, albeit in smaller numbers. In a meeting with the chairperson of the al-Zubair District Security Committee on 9 October, UNAMI learned that security forces had arrested five people on 27 September in connection with the threat letters.

The attacks against members of the Sunni community in Basra and Nassiriyah in the south were mirrored by attacks on the Shabak community in Ninewa governorate in the north. The Shabak are a minority, largely Shi'a, group located around Ninewa. Threatening letters delivered to Sunni families even referenced the Ninewa killings as justification. The tactics employed against the Shabak were different - IEDs were often preferred to targeted killings, but the targets in both areas were civilians. UNAMI registered 15 attacks against Shabak in Ninewa during the reporting period. The attacks killed at least 56 Shabak civilians and injured 119. On 14 September, for example, a suicide bomber targeted a Shabak funeral in Ba'ashiqa district, Ninewa Governorate, killing 29 civilians and injuring 48. Following this, on 17 October, a VBIED exploded in Mwafaqiya village, Bartilla district, Ninewa Governorate, killing 15 and injuring 65 members Shabak civilians.

There were two other attacks on minorities during the reporting period, both targeting Christians in Baghdad on 25 December. Two roadside IEDs exploded in a crowded Assyrian market in Baghdad while another VBIED exploded near a church, killing at least 35 civilians and injuring 56. The VBIED was timed to explode as worshipers left the church after Christmas prayers. Otherwise, Christians in southern Iraq, as well as Kirkuk and Salahiddin governorates told UNAMI there had been no attacks against them from July to December. On 20 July UNAMI attended Basra's Sabian Mandaean community's New Year's celebration. Community leaders accused Basra government of renegeing on a promise made by the Prime Minister in 2010 to provide them land with running water suitable for their religious practices. The situation is different in Nassiriyah, according to the MoHR Head who met UNAMI on 4 December. Thi-Qar's local authorities have taken steps to protect the rights of Sabians in Nassiriyah, including building them a temple in which they can practice their religion without interference. Activists in Nassiriyah painted a different picture, however, telling UNAMI that Sabians' rituals were not respected and they are unable to conduct marriage and death ceremonies in accordance with their traditions.

### ***7.1.1 Draft Bill on Protection of Religious and Minority Rights***

UNAMI continued to work with the Government and civil society on improve the draft Bill on the Protection of Religious and Ethnic Minority Group Rights, which was under Council of Ministers' review during the reporting period. On 10 September, UNAMI convened a round table dialogue with the CoR, the Iraqi High Commission for Human Rights (IHCHR), civil society organisations, international and national non-government organisations (NGOs) and Iraqi legal experts, followed by a second meeting on 22 October. UNAMI and civil society found four areas in which the draft law is incompatible with Iraq's international and Constitutional obligations. The terminology does not provide an adequate definition of minorities; the bill does not foresee a mechanism via which minority groups can claim protection for cultural, religious, linguistic and heritage rights; it does not cross reference other legislation, creating confusion about which law will have primacy; and it provides inadequate mechanisms for implementation as most bodies it purports to create are advisory. The CoR agreed to revise the bill in accordance with these concerns.<sup>42</sup>

## **7.2 Rights of ethnic and minority groups in the Kurdistan Region**

Members of the Assyrian community in Dohuk governorate continued to allege that agricultural land belonging to them was being illegally occupied by Kurdish officials and tribal leaders and used for commercial and investment purposes. UNAMI visited nine Assyrian villages in July and met the Assyrian community and a person they accused of illegally occupying their land. UNAMI also met police and local officials in Dohuk including the chair of the committee established by the Governor of Dohuk in 2012 to resolve the issue. The committee's attempts to resolve the issue by mediation had been unsuccessful. The Assyrians have also sought legal redress and accused the police of refusing to register their complaints. UNAMI urges the committee to resolve the issue and publish its findings. According to the KRG, the issue is a private land dispute which was referred to the courts which found that the land in question located in Berishke village, had been legally transferred to its present owners since at least 1975 and had been continuously worked by them. The decision was appealed to the Court of Cassation of the KR but the appeal was dismissed.

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<sup>42</sup> According to the MoHR response to this report received on 15 May 2014, the Bill was reviewed by the Committee on minorities of the CoR revised the draft and forwarded the Bill to the Council of Ministers on 19 September 2013 for consideration and amendment. The Ministry also stated that it was working with the Ministry of Education and representatives of minority groups to reform the education curriculum to ensure it promotes equality and respect for diverse religious, cultural and linguistic groups in Iraq. The Ministry has also worked actively with the Government of Iraq to enhance the protection and security of minorities, including the inclusion of members of minorities in the security forces in the areas where they are located.



In December UNAMI visited Ba'ashiqā and Shikhan districts to meet the Yazidi community. Ba'ashiqā and Shikhan districts lie in disputed areas between the KRG and the Government of Iraq. Community representatives accused extremist groups of abducting a man in May 2012 in close proximity of an Iraqi army checkpoint. They also accused the Government of withholding social benefits to Yazidi including those with disabilities. They feel they are inadequately represented in the CoR and called for better services to minority communities. Furthermore, they accused Kurdish investors of developing commercial and residential facilities on Yazidi agricultural land. The Yazidi community claims to have reported these problems to the KRG and Government of Iraq to no avail. According to the KRG, the Kurdistan Region has received hundreds of Yazidi families who fled security threats and there are 5000 Yazidi students studying in the region's schools and universities. In 2013, 850 Yazidi students, mostly from Mosul, were admitted to schools and universities in Dohuk.

According to the KRG, the government actively pursues policies to protect and enhance respect for minority groups and their culture throughout the region. The Ministry of Culture (KR) has two directorates, one dedicated to Turkmen and the other to Syriacs, Chaldeans and Assyrians which promotes the cultural events of those communities, funding of cultural centres, museums, publication of books in minority languages, promotion of international conventions in minority languages, and providing licenses for TV stations broadcasting in minority languages. The KRG reiterated that no minority group is forced to use the Kurdish language in schools and the Ministry of Education actively supports the study of minority languages.<sup>43</sup>

### **7.3 Attacks on persons for their perceived sexual orientation**

UNAMI continued to receive reports from various parts of Iraq from persons who had suffered from harassment, threats, intimidation, physical and sexual violence, and discrimination on the basis of their sexual orientation.<sup>44</sup> In a number of such cases, threats and physical violence had been at the hands of family members who believed that the victims' sexual orientation was a stain on their honour. Iraqi citizens also reported vilification and harassment by security officials at checkpoints on account of their perceived sexual orientation. UNAMI interviewed three Iraqi citizens who claimed that they had been sexually and physically assaulted by police after being identified as gay or lesbian. UNAMI received information concerning at least six murders that appear to have been motivated by the victims' sexual orientation – some of which appear to have been committed by armed groups, and in one or possibly two cases by persons related to the victims. As with other crimes of involving honour, no proper investigations were carried out into the deaths.

Many persons interviewed by UNAMI expressed deep seated fear for their physical safety should their sexual orientation be made known to family members or revealed publicly. All stated that they could not go to the authorities to seek protection against threats of harm or violence, or when they have been the victims of physical or sexual assault, as they feared that they would be subjected to greater harm or killed. UNAMI also received information confirming that some armed groups continued to publicly threaten people on account of their perceived sexual orientation, posting their names on walls and threatening them with death.

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<sup>43</sup> According to the KRG response to this report received on 15 May 2014, there are 21 schools teaching in the Turkman language, 56 teaching in Syriac and a special committee in the Directorate of Education is overseeing the teaching of the Yezidi religion in Dohuk.

<sup>44</sup> According to the MoHR response to this report received on 15 May 2014, the Iraqi Penal Code no. 111 of 1969 does not criminalise consensual sexual acts between persons of the same gender. It noted, however, the owing to traditional practices and customs result in targeting of persons based on their sexual orientation, particularly for reasons of honour. However, the Ministry notes that the perpetrators of acts for violence against persons on the basis of their real or perceived sexual orientation will face prosecution under the relevant articles of the Iraqi Penal Code no. 111 of 1969.

## 8. Rights of Persons with Disabilities

### 8.1 Legislative framework

On 7 September, the CoR endorsed the Law for the Care of Persons with Disabilities and Special Needs and the President's Office approved it on 28 October. Unfortunately the law, drafted before Iraq acceded to the Convention on the Rights of Persons with Disabilities (CRPD) in January 2012, did not fully reflect the provisions of the Convention. UNAMI had organised a conference on the draft law in December 2012, along with the Iraqi Alliance for Disability Organization (IADO) and the Parliamentary Human Rights Committee, resulting in recommended amendments to the draft which were presented to Parliamentary Committees, the CoR, the Council of Ministers, and the MoHR. UNAMI also conducted extensive advocacy with a range of interlocutors, including the Speaker of the CoR, various Parliamentary Committees, the MoHR, and the Office of the Prime Minister and Cabinet to express concerns about the draft law and to advocate for full implementation of the recommended amendments.

Following enactment of the Law on the Care of Persons with Disabilities a review conducted by UNAMI indicated that some of these recommendations were incorporated; for instance the law dictates that at least five to seven out of the 29 members of the Board for Disabled Persons and People with Special Needs shall be persons with disabilities. However, there are still some concerns requiring further attention. These include the title of the law, which fails to capture the CRPD's focus on shifting attitudes and approaches to persons with disabilities. The Convention views persons with disabilities as active members of society capable of claiming their rights, as opposed to recipients of care. There are also concerns about structural placement of the Board for Disabled Persons and People with Special Needs, which is tasked to oversee the implementation of the law. According to the law the Board will function under the administrative control of the MoLSA. Placing the board under the control of a ministry compromises its independence and ability to act purely in the best interests of people with disabilities.<sup>45</sup>

#### 8.1.1 Local level developments

On 28 December Basra's First Deputy Governor, Mohammed Tahir al-Tamimi, announced a series of measures to "serve, support and rehabilitate" Basra's people with disabilities to assist them become a "productive force" in the city. According to his statement, the 2014 local government budget will include special programmes designed to assist people with disabilities including assigning an official in each governmental department dedicated to ensure that programmes consider their needs. The First Deputy Governor described people with disabilities as an important element of society and spoke of their particular rights and duties. The local government's aim, according to him, is to support disabled people to create a generation better equipped to face future challenges.

In October a kindergarten for children with special needs opened in Kirkuk, following an advocacy campaign led by the Kirkuk Rehabilitation Centre and supported by UNAMI. Several government bodies collaborated on the project, including the Kirkuk Health and Kirkuk Education Directorate, as well as the Human Rights and the Women and the Children Committees of the Provincial Council. The kindergarten began to receive children in December.

### 8.2 Rights of Persons Living with Disabilities in the Kurdistan Region

People with disabilities in the KR continued to call on the KRG to amend Law no. 22 of 2011 (Rights and Privileges of Persons with Disabilities and Those with Special Needs in the Kurdistan Region) to enhance

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<sup>45</sup> According to the MoHR response to this report received on 15 May 2014, the Board overseeing implementation of the CRPD, despite being linked to MoLSA, will operate independently.

protective measures for them. Among their demands are increased pensions for people with disabilities and their care providers, health insurance, housing, and loans enabling people with disabilities to marry. Although the KRG committed to amend the law in December 2012 the proposed amendments had not been submitted to the Parliament for consideration by the end of December. In a demonstration to coincide with International Day for Persons Living with Disability, on 3 December a group of people with disabilities and their supporters gathered outside the Council of Ministers building in Erbil demanding better protection of their rights. The MoLSA's Directorate of Welfare and Protection meanwhile informed UNAMI that it is strictly enforcing government regulations on provision of disability benefits under current legislation. The KRG acknowledged to UNAMI that implementation of the Law no. 22 of 2011 will need more time and effort. In relation to this, the Council of People with Disabilities has been established and is chaired by the Minister for Labour and Social Affairs (KR), with representatives from the Directorate of Social Care and Development from all provinces of the KR and various KR ministries (Education, Health and Justice). MoLSA (KR) confirmed that it had made recommendations to the Council of Ministers (KR) to amend the Law no. 22 of 2011 after extensive consultations with various organisations of people with Disabilities, and the proposed amendments are now awaiting submission to the Kurdistan Region Parliament. The KRG also noted that it is not opposed in principle to considering increasing pensions and benefits for people with disabilities, but is unable to do so at the present time owing to the financial constraints – although it will move to raise pensions and benefits in 2015. The KRG noted that provision of healthcare for persons with disabilities is free of charge, and the Government has been providing non-repayable grants to enable people with disabilities to get married.

On the issue of the medical committees established to examine recipients of benefits to assess their level of disability or incapacity, the KRG informed UNAMI that in September 2013 there were a total of 111,619 people registered and in receipt of benefits and pensions.

The Government is also in the process of reviewing the curricula of special schools for students who are blind or hearing impaired or deaf. The review is being carried out jointly by the MoLSA (KR) and the Ministry of Education (KR). The review is also considering options to mainstream these students into the general school system once they reach grade nine.

## **9. Freedom of Expression and Protection of Journalists**

### **9.1 Violence perpetrated against media professionals**

The targeting killing of journalists and media workers continued from July to December. UNAMI confirmed the killings of at least 12 journalists and media personnel during the period while five media workers were injured. According to the MoHR, 17 media professionals were killed during the second half of 2013. Most of the attacks on journalists occurred in Mosul, Ninewa governorate where on 5 October unidentified gunmen shot dead two local journalists working for Al-Sharqiya TV Channel in Sarj-Khana sub-district. Five days later unidentified gunmen attacked Al-Mowselya TV Channel in Mosul, clashing with and killing three Iraqi soldiers protecting the building. On 24 October unidentified men used silenced weapons to kill a cameraman working for Museliya TV in Mosul. On 27 October, a correspondent of Masar TV Channel in Mosul was killed by unidentified gunmen with small arms in the Cultural Complex of northern Mosul. Another journalist was killed by unidentified gunmen in Al Majmoua' Al Thaqafiyyi neighbourhood of the city on 24 November. Although local officials told UNAMI that investigations were on-going, no arrests had been made by the end of the reporting period.

On 23 December an unidentified armed group carried out a complex attack on the Salahiddin Satellite and Radio Channel in Tikrit involving three VBIEDs and four suicide bombers. Five media workers were killed, including a director and a presenter and ten more were injured. Among those killed were the chief of Salahiddin Television, a copy editor, a producer, a presenter, and a technician. The survivors were too

afraid to speak to UNAMI following the attack. By the end of the reporting period authorities were yet to arrest the perpetrators.

In southern Iraq UNAMI saw a death threat issued to a female journalist via social media. She was reluctant to raise the issue with the police for fear of collusion between the authors of the threats and elements within the Iraqi security forces. Journalists in Kirkuk also highlighted the decreasing numbers of female journalists during the reporting period, explaining that it had become “very dangerous” for them. The leaders of the four prominent Human Rights NGOs in Basra also reported receiving threats during the spate of sectarian killings in September. Not all of the threats were reported to the police, due to mistrust and suspicions about police collusion with the militia groups suspected of issuing these threats.

The Iraqi Journalists Syndicate and civil society organisations have repeatedly complained about the lack of protection for media workers and impunity for the perpetrators of attacks. On 10 December UNAMI issued a public statement condemning the attacks, and calling upon the authorities to conduct an independent investigation to bring the perpetrators to justice.

### ***9.1.1 Intimidation from state agents***

UNAMI documented one incident during the reporting period in which state agents had intimidated a media worker. Kirkuk police arrested the man in question in the city during the reporting period and accused him of assisting terrorists after he took pictures at the scene of an explosion. The journalist was blindfolded and beaten on the legs and about the head with an electric rod. Eventually he agreed that he belonged to ISIS in order to stop the torture. The following day he was placed before a judge who ordered his immediate release for lack of evidence. The journalist told UNAMI that he lives in fear of Kirkuk intelligence in case they detain him again.

Intimidation creates a lasting detrimental effect on freedom of expression. A Basra journalist interviewed by UNAMI on 24 October conceded a cautious approach to publishing articles, which could be perceived as anti-government. This follows incidents occurring around a year previously when his media outlet broadcast an interview with a former Ba’ath Party member. Iraqi Security forces responded by raiding the organisation’s offices and arresting two staff members. The journalists were held for around four hours before the then Basra Governor intervened on their behalf to secure their release.

## **9.2 Freedom of expression in the Kurdistan Region**

Journalists and media professionals in the KR suffered violence and intimidation during the reporting period. The violations included threats, physical attacks, assassination, and attempted assassination.

Unidentified gunmen shot dead a prominent Kurdish journalist called Kawa Garmiyani outside his house in Kalar, Garmiyani District, Sulaimaniyah governorate, on 5 December. He had been exposing local government corruption and nepotism and had reportedly received death threats after disclosing that he planned to publish evidence implicating government officials. The assassination was widely condemned and sparked demonstrations across the KR. Prime Minister Barzani established a committee to monitor the police investigation into the killing. The committee compromised his legal advisor and representatives from Kurdistan Journalists Syndicate and the Metro Centre for Defending the Rights of Journalists, as well as the Ministry of Interior, security forces, and Garmiyani local administration. The journalists’ relatives filed a case against a PUK official they believe was involved. According to the KRG, the case is still in the investigation phase and reiterated that all judicial procedures in the KR are independent and transparent and conform to international legal standards.

Other reports of intimidation against journalists include death threats to a prominent Kurdish writer, which began in May and continued into the reporting period. The case was registered with KR authorities in July. A media owner survived an assassination attempt in October. No arrests had been made in connection with either case by the end of December. Other unsolved cases in which journalists have been

murdered in recent years have led media workers to allege a culture of impunity for attacks on journalists in the KR.<sup>46</sup> The KRG informed UNAMI in response to this report that the incidents of violence against journalists and media professionals had decreased from 47 in 2013 in comparison with 63 in 2012. The MoI (KR) has established joint committee with the Journalists Syndicate to examine and follow up on all allegations of violations committed against journalists.<sup>47</sup>

## 10. Freedom of Assembly

Demonstrators took to public places across Iraq from July to December to protest a range of issues including armed violence, parliamentary privileges, poor infrastructure and failure to reform the Anti-Terrorism law no. 13 of 2005. Through its monitoring of demonstrations, UNAMI observed many situations in which security forces respected demonstrators' rights to peaceful assembly and allowed protests to go ahead without resorting to violence or heavy-handed tactics. The weekly demonstrations and sit-in protests which began in Sunni areas in December 2012 continued throughout the reporting period in parts of Baghdad, Anbar, Ninewa, Salahiddin, Diyala and Kirkuk. The demonstrators raised a number of grievances relating to the rule of law and the administration of justice. The Iraqi Security Forces generally respected the demonstrators' rights of peaceful assembly and freedom of expression. Security forces were not always able to protect protesters from other armed groups however, as violent incidents took the lives of demonstrators in Anbar and Salahiddin governorates. Two VBIEDs directly targeted participants in two coordinated sit-in protests in Samara in Salahiddin on 5 July, killing four and injuring three. Two people were also injured when an unidentified gunman opened fire at a third sit-in protest in Ramadi main square on the same day.

In some areas, local government responded to less contentious demonstrations by indicating that they would take heed of demonstrators' demands. For instance, in Basra in response to hundreds of demonstrators who had gathered outside government buildings on 23 November calling for better services following flooding caused by heavy rains, a spokesperson for the Basra Governor acknowledged that the demonstrators had voiced legitimate concerns. However, the authorities' response to coordinated demonstrations on 31 August and 5 October in Baghdad, Ninewa, Babil, Wassit, Diwaniya, Najaf, Karbala, Nassiriyah and Basra was mixed. The demonstrations were in protest at pensions for Parliamentarians that they claimed were excessively generous. In some areas, security forces did not obstruct them, despite the MoI's refusal to grant them legal permission to hold the demonstrations. In Baghdad however, security forces blocked demonstrators' access to the demonstration area, leading to violent clashes, while in Nassiriyah security forces used tear gas and water-canon on protestors, causing injuries to four people. In Thi-Qar governorate violence used by security forces against demonstrators was such that the Governor was forced to apologise and to give assurances that it would not happen again. Live rounds were also used in Kirkuk against demonstrators and reporters were intimidated, although no one was injured.

UNAMI received allegations that those organizing demonstrations in Kirkuk sometimes face arbitrary arrest and detention. On 8 October for example, Kirkuk Police Intelligence arrested one of the organisers of the 'Herak' demonstrations (demonstrations against government policies in Sunni areas in 2012).

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<sup>46</sup> The KRG, in its response to this report received on 15 May 2014, informed UNAMI that action had been taken in all cases concerning attacks or threats against journalists or media workers that were referred to the authorities. In the case of Asos Hardy who alleged he was beaten by the bodyguard of a KRG official, the criminal court sentenced the defendant to eight years imprisonment. However, the court on appeal reduced the sentence from eight years to two years imprisonment.

<sup>47</sup> According to the KRG, the first report of this committee was published on 10 February 2014 and that the Law no. 35 of 2007 is applied in all areas of the Kurdistan Region, except for Kanaaqeen, Kalar and Kifry. The report also noted that the Law on Access to Information is operative, which permits public access to government held.

Kirkuk Police Intelligence then tried to hand him over to national Intelligence officers who had come from Baghdad with a transfer letter. Eventually a Kirkuk officer refused to transfer him over to the Baghdad authorities without an arrest warrant. Despite this, he was held without charge for three days. Fearing re-arrest, he fled the country. On 1 December security forces in Kirkuk released another organiser of peaceful protests, who had been held in pre-trial detention for six months in a military facility.

In a positive move, the MoHR and the MoJ announced in November 2013 that it would consider applications for compensation from civilians allegedly affected in the incident in Hawija on 23 April when Iraqi security forces used considerable force to end a demonstration that had been taking place in the town for the previous year. As a result of the incident 44 people and one Iraqi security force member were killed – although the Government claimed that many of those killed either belonged to terrorist or insurgent groups or their deaths were caused by terrorist or insurgent groups who had infiltrated the civilians participating in the demonstration and had used violence against government forces.

## 11. Other Human Rights Issues

### 11.1 Refugees and Internally Displaced Persons

By the end of December, 206,137 Syrian civilians had sought asylum in Iraq; over 200,000 in the KR and around 6,000 are in Al-Qa'im, Anbar Governorate<sup>48</sup>. This does not include the 53,000 or so, who, by the beginning of December, had returned to Syria of their own accord. By the end of the reporting period, around 40 per cent of the refugees were in camps with the rest hosted by local communities. The large number of refugees put a strain on public services and local infrastructure in the KR. The international community and the UN continued to support the Iraqi Government's efforts to respond to the humanitarian needs of Syrian refugees via the emergency response plan.

The Iraqi border with Syria beyond the KR has been closed since October 2012. The KR border was also closed in May 2013 but it reopened in August 2013. From August to September there was an influx of over 60,000 Syrians. The KRG closed the border again in September citing a deteriorating security situation. The border remained closed at the end of the reporting period. As a result, thousands of Syrians remain trapped on the Syrian side of the border. Families divided across the border have also been prevented from reuniting. UNAMI recognises the strain placed on KRG authorities by the Syrian refugees and is grateful to it for providing land and services to them. UNAMI joins UNHCR however, in requesting the KRG to reconsider its decision and to reopen the border to Syrian refugees. The KRG informed UNAMI that the border crossings with Syria are in fact open and that approximately 250,000 Syrian Kurdish refugees had crossed into the KR where they are receiving assistance. The KRG also noted that it has been active in assisting humanitarian aid and assistance through the border crossings of Semalka and Fishkaboor and through airlifts to Qamishlo and Hasaka in Syria.

#### 11.1.1 Refugee and asylum seekers

The deteriorating security situation during the reporting period continued to impact persons of concern. Their integration, both economic and legal, remains problematic due to the high rate of unemployment and the sensitivities regarding local integration. Refugee populations who were targeted during the 2006-2008 sectarian violence, such as the Palestinians, have become increasingly vulnerable with new reports of kidnapping and harassment. Moreover, the adoption of a new refugee law has remained a low priority and no progress was made in this regard. UNHCR and its protection network partners, including the International Rescue Committee (IRC), continued to provide legal and social assistance to all persons of concern to UNHCR, including asylum seekers and refugees, especially to those who had been arrested

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<sup>48</sup> UNHCR provided the figures.

and detained. In this regard, UNHCR and the IRC intervened to provide legal representation in court, prevent deportation and secure the release of genuine asylum seekers and refugees.

### **11.1.2 Iraqi refugee returnees**

From July to December, approximately 20,422 Iraqis were reported to have returned to Iraq from Syria, bringing the total number of Iraqis who returned from Syria during 2013 to 52,453. Fewer Iraqis returned from Syria during the second half of the year due to deteriorating security in Iraq and the Iraqi security forces' failure to fully control the Anbar – Baghdad highway. As a result only 196 returnee households were registered with the Ministry of Migration and Displacement (MoMD) during the reporting period. This brings the total of registered returnees to 7,250 households since 20 June 2012 when the MoMD launched expedited registration procedures for Iraqi returnees from Syria. UNHCR assessed the returnee households and found 58 of them eligible for assistance under the Extremely Vulnerable Individuals. Other household benefit from cash assistance livelihoods projects. Furthermore UNHCR identified 1,000 primary and secondary school returnee children in Baghdad and Diyala governorates to whom they provided uniforms and school materials.

### **11.1.3 IDPs**

At the beginning of the reporting period there were 993,188 registered IDPs in Iraq, according to Government statistics. Many fled their homes in fear of the sectarian violence which followed the Samara shrine bombing in February 2006. More recent violence, some of which occurring during the reporting period, has increased their number. The IDPs tend to live either in rented accommodation or informal settlements throughout the country, often with limited access to utilities, adequate sanitation, education, and job opportunities. The MoMD's strategy has relied upon cash grants to promote IDP returns or long term settlement in the areas of displacement. In September the MoHR instructed its provincial offices to establish "Eviction Order Committees" to collect information on the reality of informal settlements, which would then be submitted to the Minister to halt evictions with alternate and durable solutions for those who are affected by eviction orders. Additionally, with the information collected, the local authorities are expected to take action to improve the conditions of informal settlement to meet minimum standards of living. The committees include representatives from MoHR, MoMD, Provincial Councils, as well as UNHCR and IRC.

## **11.2 Rights of migrant works in the Kurdistan Region**

UNAMI remains concerned about inadequate protection of migrant workers in the KR. UNAMI actively monitored migrant workers during the period and can confirm that they continue to suffer abusive labour practices including confiscation of passports, substandard living and working conditions, restrictions on movement and financial exploitation. At the end of December there were around 16,000 documented migrant workers in the KR and their numbers look set to increase.

Migrant workers are subjected to a pattern of exploitation by recruitment agencies and employers. The pattern includes confiscation of passport on arrival, no information regarding contractual conditions and failure to apply for renewed work permits rendering migrant workers vulnerable to further exploitation due to their illegal status. In July UNAMI intervened on behalf of 22 Indian migrant workers stranded in Dohuk after their prospective employer terminated their contracts. UNAMI persuaded the recruitment agency and the company to repatriate them. In November, UNAMI discovered that a Sulaimaniyah cleaning company had confiscated the passports and failed to obtain residency permits for 200 migrant workers. UNAMI raised the matter with MoLSA officials who provided assurance that an investigation committee would follow up.

Migrant workers who are discovered without residency permits can face prolonged pre-trial detention in overcrowded cells. UNAMI observed 140 foreigners in a police detention facility in Sulaimaniyah,

mainly from Bangladesh and Pakistan. Forty-nine of them had been detained for over six months for either entering the KR illegally or overstaying their visas.

The MoLSA Director General acknowledges that some companies in the KR do not adhere to the legal procedures for recruiting and/or employing migrant workers and has established an investigation committee to follow up alleged violations. MoLSA also claims to conduct on-site monitoring visits. In November MoLSA officials in Sulaimaniyah told UNAMI that they have referred 20 companies to the labour court in Sulaimaniyah over the past year. Despite these efforts, there is an urgent need for the KRG to pass comprehensive legislation and to establish mechanisms aimed at addressing these concerns. UNAMI has recommended the KRG amend existing laws and policy instruments on a number of occasions. These include MoLSA Instruction no. 2 of 2007 on Foreign Workers in the Kurdistan Region. The KRG needs to develop a more comprehensive legislative and policy framework to protect migrant workers in accordance with international standards. In response to this report, KRG informed UNAMI that a draft Labour Law has been adopted by MoLSA (KRG) and submitted to the Council of Ministers in official letter No. 5179 of 2013. Furthermore, MoLSA (KRG) has issued instruction No. 3 of 2013, which imposes strict conditions on companies wishing to hire migrant workers so as to ensure their conditions of employment. Pursuant to the instruction, all migrant workers in the KR must be registered. According to MoLSA (KR) there are 15,000 foreign workers officially registered and the KRG provides them social and health insurance in case they do not have any from their countries of nationality. The MoLSA (KR) has also established a hotline telephone number for migrant workers to obtain assistance. Visas for foreign workers are issued through the MoI under Law No. 118 of 1987 (KR amended) while Iraqi citizens from outside the KR only need to apply for security clearance from the Asayish.

## **12. Human Rights Institutions**

### **12.1 Iraqi High Commission for Human Rights**

During the previous reporting period the COR approved the budget of the IHCHR. The IHCHR also divided its work among the Commissioners, distributing 13 priority areas between them. However, it was unable to build on this during the current reporting period and failed to nominate a chairperson to lead the Commissioners or to establish a central office or regional offices elsewhere in Iraq. This can be partially explained by Iraq's increasingly volatile security situation and lack of political will to establish a strong and independent national human rights institution.

Despite the lack of structural progress, the IHCHR began receiving complaints from Iraqi citizens concerned about human rights in prisons and detention centres and referred the complaints to the MoI and MoJ for investigation. The IHCHR carried out its own fact finding missions, with prison visits in Kurdistan and Kirkuk, and in September, it monitored the situation of Syrian refugees in refugee camps in the KR.

The IHCHR conducted a joint workshop with the Kurdistan Region Independent Board for Human Rights (KIBHR) on 1-2 December, on the Universal Periodic Review (UPR). The two institutions agreed to cooperate by submitting a joint contribution for the stakeholders report of national human rights institutions that will be submitted ahead of the next UPR of Iraq before the Human Rights Council in October 2014.

The IHCHR also organised thematic symposia focusing on the rights of persons with disabilities, the role of elections in promoting democracy, and a conference on violence against women in Baghdad, as well as a symposium on its own role in social protection.

The IHCHR began building the capacity its staff, holding workshops in Erbil in September and November. UNAMI and UNDP continue to provide technical assistance and to build the technical



capacity of the commissioners and staff through funds donated by the Government of Sweden and the European Union.

## **12.2 Kurdistan Region Independent Board of Human Rights**

UNAMI continued to provide technical support to the KIBHR in the implementation of its mandate. In September KIBHR, UNAMI and UNDP held a workshop to articulate the KIBHR's vision and mandate. The Human Rights Commissions of South Africa, Palestine and Canada all attended and gave presentations, along with representatives of the IHCHR.

On 11 December, the KIBHR released its first Annual Report on the human rights situation in the KR. The report covers the rule of law and detention, women's rights, children's rights, rights of persons with disabilities, minority rights, rights of refugees and IDPs, freedom of expression, access to education and health services. In particular, it raised concerns about the low number of judges, prosecutors and courts, poor prison conditions and overcrowding and ill-treatment of detainees. The report also highlighted some government institutions' failure to cooperate with the KIBHR. The report made a number of recommendations including adoption of a draft Child Protection Law, amendment of the Public Prosecution Law, legislation to replace the death penalty with life imprisonment, and adoption of the draft Shelter Policy.

## **13. National Action Plan for Human Rights**

The Government of Iraq appointed an inter-departmental, cross-sectorial committee (the committee) to oversee the implementation of the National Action Plan for Human Rights (NAP) in early 2012. UNAMI has a seat on this oversight committee through which it offers technical advice and support. From July to December it held three meetings. Despite this, no further progress was made implementing the UPR recommendations already approved by the Government of Iraq and the implementation status of UPR recommendations remained the same as it did in UNAMI's previous report. According to the Government, 33 of the 135 UPR recommendations accepted by Iraq have been fully implemented. A further 99 recommendations have been partially implemented, while another three recommendations remain to be implemented. Recommendations not implemented include the ratification of the optional protocols to a number of human right treaties and the issuance of a standing invitation to all United Nations' Special Procedures.

The committee organised thematic activities in pursuit of NAP implementation. In August it collaborated with the Iraqi MoMD to convene a conference on Iraqi citizens in the United Kingdom and to encourage their voluntary return to the country. In November, it held a conference on peaceful coexistence and non-violence in Erbil, and organised an anti-corruption programme for State employees in collaboration with the Inspector General's Department. In December, the committee held a workshop on the proposed child protection law in Iraq, attended by the Council of Ministers, the State Shura Council, the MoLSA, the Ministry of Education (MoE) and the MoH, as well as a number of civil society organisations (CSOs). The participants produced recommendations to the State Shura Council.

As mentioned earlier, Iraq will undergo its second UPR before the UN Human Rights Council (HRC) in Geneva in October 2014. In preparation for the process, UNAMI held two workshops to build the capacity of CSOs to prepare and submit a report for the stakeholder's report. The first workshop took place in Erbil and was attended by 18 CSOs from across Iraq. The creation of an internet-based platform for Iraqi NGOs to share reports was one of the main outcomes of the meeting. The second workshop involved members of the IHCHR and KIBHR and their role in informally briefing the HRC during the UPR of Iraq.

### **13.1 Kurdistan Region Action Plan for Human Rights**

The KRG continued to implement the Kurdistan Region Action Plan for Human Rights, which it launched in January 2013. In October the KR MoI, MoLSA, MoH, Ministry of Culture, and Judicial Council submitted reports detailing their activities to implement the plan to the MoHR in Baghdad. Achievements reported included the establishment of the KIBHR; establishment of the Judicial Academy, construction of new police detention facilities, the drafting of the KR Anti-Human Trafficking and Child Protection laws, and printing and dissemination of the Convention on the Rights of the Child in four different local languages. Many of these activities began before the current reporting period and continued into it. The KRG also enacted the Access to Information Law in July. The KRG also highlighted some important measures the government has taken to protect the rights of women in the KR as noted above, including the Council of Ministers' decision in the latter half of 2013 to granting the DCVAW authority to investigate cases of violence against women. The KRG also continued to update its database at the MoH to document the statistics and needs of Persons with Disabilities.

UNAMI welcomes the KRG's progress in implementing the KR Action Plan.

## **14. Legislative developments**

The President's office signed the *Law for the Care of Persons with Disabilities and Special Needs* into force on 28 October 2013 (see 8.1, above). Otherwise, no progress has been made by the Government to implement the recommendations made by UNAMI in its previous report, including acceding to the Optional Protocol to the Convention Against Torture, the optional protocols to the ICCPR, the 1951 Convention on the Status of Refugees and its 1967 Protocol, the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the Additional Protocol II to the Geneva Conventions of 1949, and the Rome Statute of the International Criminal Court. The draft bill on the Protection of the Rights of Religious and Ethnic Minority Groups remained under Council of Ministers' review during the reporting period (see 7.1, above). The CoR continued closed-door discussions on the draft Family Protection Bill (see 6.1, above).

### **14.1 Legislative developments in the Kurdistan Region**

The KRG did not enact new laws or amend existing legislation related to the protection and promotion of human rights. Proposed amendments to Law no. 22 of 2011 on the Rights and Privileges of Persons with Disabilities and those with Special Needs in the Kurdistan Region were not submitted to the KR Parliament for consideration. The proposed Child Protection Law remained under the consideration of the KR Parliament at the end of December.

## **15. Mass Graves**

A MoHR team removed 242 corpses from a site in al-Faw, Basra governorate, in mid-November. The bodies are believed to be of Iraqi and Iranian soldiers who died during the Iran-Iraq war. Of the remains, 196 were Iraqis and 46 were Iranians. Towards the end of November the MoHR discovered two more mass graves in Basra; one in al-Haniya and the other in West Qurna. The recovery of corpses began in December.

On 3 December the MoHR issued a statement outlining regional efforts to identify missing people from the conflicts with Iran and Kuwait.

The MoHR also provided an update recovery of remains from the Iran/Iraq war, following a 2008 Memorandum of Understanding between Iraq and Iran. Many files from both sides have already been closed with help from the International Committee of the Red Cross. The Ministry continues to follow up on 167 cases of missing Iraqis believed to have been in Iran as prisoners of war. In December 2013 the MoHR had extracted and identified 1,218 human remains. There is a list of 52,758 “*general*” missing people about whom nothing is known. On 8 December the MoHR received remains of 12 Iraqi soldiers at the Al-Shilamjeh border with Iran in Basra. The soldiers were killed during Iran/Iraq war. The MoHR handed over 38 residues of Iranian soldiers during the same exchange. It was the 36th exchange of mortal remains between the two countries since 1996. The total number of remains exchanged at Al-Shilamjeh border is 2364 Iranians and 1998 Iraqis. At the close of the reporting period, excavation of Iranian remains was continuing in the fields of Majnon in Missan governorate and al-Faw in Basra governorate.

END

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