



HUMAN RIGHTS Office of the
High Commissioner for Human
Rights



UNITED NATIONS Assistance
Mission for Iraq (UNAMI) Human
Rights Office

Report on Human Rights in Iraq: July - December 2012

UNAMI Human Rights Office/OHCHR,
Baghdad

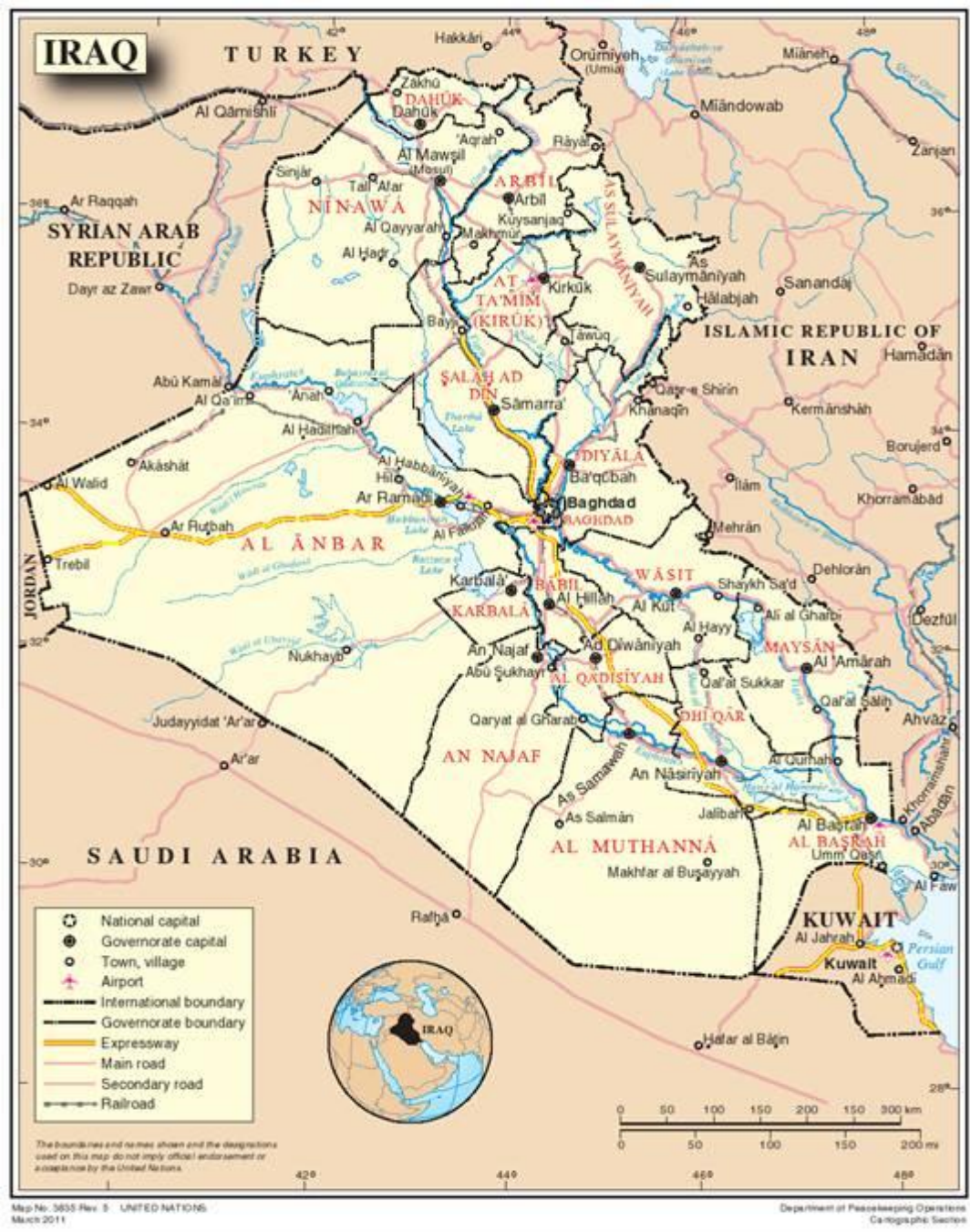
June 2013

Report on Human Rights in Iraq: July – December 2012

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

June 2013, Baghdad

Map of Iraq



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

Table of Contents

Recommendations.....	iii
Recommendations for the Government of Iraq.....	iii
Recommendations specific to the Kurdistan Region Government.....	v
Executive Summary.....	vi
Kurdistan Region	viii
Human Rights in Iraq: July - December 2012.....	1
1. Introduction	1
2. Armed Conflict and Civilians.....	2
2.1 Armed conflict and violence in the Kurdistan Region	6
3. Detention and Rule of Law	6
3.1 Numbers in detention	7
3.2 Respect for due process.....	8
3.3 Standards of detention.....	10
3.4 Allegations of ill-treatment	12
3.5 Fair trial standards.....	14
3.6 Detainees and missing persons in Kirkuk	16
3.7 Detention and the rule of law in the Kurdistan Region	16
4. Death Penalty	17
4.1 Death Penalty in the Kurdistan Region Government	18
5. Mass Graves.....	18
6. Rights of Women	18
6.1 Rights of Women in the Kurdistan Region	20
7. Rights of ethnic and religious groups	21
7.1 Rights of ethnic and religious groups in the Kurdistan Region.....	22
8. Attacks on other minority groups	23
9. Rights of Persons Living With Disabilities.....	23
9.1 Rights of disabled persons in the Kurdistan Region	24
10. Rights of Children and Youth	24
10.1 Rights of children in the Kurdistan Region.....	26
11. Freedom of Expression.....	26
11.2 Freedom of Expression in the Kurdistan Region	28
12. Other Human Rights Issues.....	30
13.1 Camp New Iraq (Camp Ashraf)/ Camp Hurriya (Camp Liberty)	30
13.2 Refugees and Internally Displaced Persons	30
13.3 Migrant Workers	32
13. Iraqi High Commission for Human Rights.....	33
14.1 Kurdistan Region Independent Board of Human Rights.....	34
14. National Action Plan for Human Rights	34
15.1 Kurdistan Regional Action Plan for Human Rights	35
15. Legislative Developments.....	35
16.1 Legislative developments in the Kurdistan Region.....	36

Recommendations

Recommendations for the Government of Iraq

1. 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”);
2. Consider accepting individual complaints procedures
3. Consider acceding to the Optional Protocol to the Convention Against Torture (OP-CAT) and the optional protocols to the International Covenant on Civil and Political Rights (ICCPR), among other instruments;
4. Review the reservations made by Iraq upon accession to international human rights treaties, with a view to their possible withdrawal.
5. 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.

Ongoing armed violence

6. 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 international legal obligations and the Constitution of Iraq.
7. Ensure compliance by police forces and all officials engaged in law enforcement and the administration of justice with Iraq’s obligations under international human rights law and the Constitution of Iraq, including with respect to persons detained in relation to terrorist violence.
8. Ensure the proper and effective coordination of financial, medical and other forms of support direct or indirect victims of violence, wherever or whenever such acts of violence were committed.
9. Develop policies aimed at addressing the root causes of terrorism.

Detention and rule of law

10. 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.
11. Reform the administration of prisons and places of detention 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. Undertake legal 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.
14. Ensure compliance by all State officials or their representatives with Iraq’s international human rights obligations, including in relation to preventing torture and other ill-treatment. Ensure that all allegations of torture or other 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.
15. 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.

Death Penalty

16. 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; and consider acceding to the Second Optional Protocol to the ICCPR aimed at abolishing the death penalty;
17. 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.

Women's rights

18. Amend the Penal Code no. 111 of 1969 to remove 'honour' as a mitigating factor in the commission of crimes of violence against women.
19. Allocate adequate resources to social and medical support, including establishment of shelters, for victims of domestic or other forms of violence.
20. Ensure that all allegations of violence against women are properly investigated by officials responsible for law enforcement and administration of justice, and that perpetrators are dealt with according to law.
21. Ensure appropriate training on gender issues, particularly violence against women, is provided to 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.
22. Amend the Criminal Code 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 women convicted for prostitution. Furthermore ensure women who are the victims of trafficking or sexual exploitation are not criminalised, but treated as victims, and provided with appropriate care, support and assistance.
23. 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.

Children's rights

24. Reform the juvenile criminal justice system to ensure that alternatives to detention are considered for children in conflict with the law.
25. 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.
26. Ensure the implementation of programmes to guarantee access of all children to basic services, including healthcare, housing and education.

Rights of ethnic, religious groups and other minorities

27. Undertake legal and institutional reforms to ensure that all laws and policies prohibit all forms of discrimination and promote 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, sexual orientation, property, birth or other status;
28. 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;
29. 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.

Freedom of expression and opinion

30. Undertake a review of all existing laws and policies to ensure that they provide and protect the rights of freedom of expression and opinion of all persons, and repeal those sections of the criminal laws concerning criminal libel;

31. 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
32. Ensure journalists are protected against harassment and violence in the performance of their profession that all allegations of such harassment or violence are promptly and thoroughly investigated and those responsible are held accountable according to law.

Freedom of assembly

33. Ensure the right of individuals to demonstrate peacefully is fully respected by police and other State authorities.
34. Undertake public education campaigns aimed at creating awareness of individuals' human rights, duties, and obligations, particularly in relation to freedom 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, reviewing the necessity for pre-trial detention, and enhancing the efficiency of processing cases before the courts.
3. 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.
4. Continue to make progress towards full implementation of the Law on Combating Domestic Violence, including establishing reconciliation committees, finalizing and adopting the shelter policy, and ensuring the swift and transparent recruitment of specialized and competent officials working to combat violence against women.
5. 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 (DPOs).
6. 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).
7. 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.
8. Introduce public education on human rights..
9. Facilitate the passing of the draft law on freedom of access to information and ensure that all prospective legislation respects and protects the rights of all individuals to receive and to impart information freely and without hindrance, unless restricted for legitimate purposes, as permitted by international human rights law.
10. 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.
11. Fully activate the independent Board of Human Rights and ensure its compliance with the Paris Principles.

Executive Summary

This report, covering the period from 1 July to 31 December 2012, is published by the Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI) in cooperation with the UN Office of the High Commissioner for Human Rights (OHCHR).

Violence and armed violence continued to take their toll on civilians in Iraq. According to the Government of Iraq, 1,704 civilians were killed and 6,651 were injured in the second half of 2012, resulting in a total of 3,102 killed and 12,146 injured for 2012. According to UNAMI, 1,892 civilians were killed and 6,719 were injured in the last six months of 2012, resulting in a total of at least 3,238 civilians who were killed and 10,379 who were injured for the year. These figures indicate that the trend of recent years of a reduction in the numbers of civilian casualties has reversed and that the impact of violence on civilians looks set to increase in the near to medium future. Terrorists and armed groups continued to favour asymmetric tactics that deliberately target civilians or were carried out heedless of the impact on civilians.

Political instability and regional developments continued to impact negatively on the security situation in Iraq, with its concomitant toll on civilians. Although the Government takes the impact of violence on civilians extremely seriously and has taken measures to enhance security, more needs to be done to ensure the proper coordination of financial, medical and other forms of support for the victims of violence.

Through its monitoring of prisons and detention facilities under the authority of the Ministry of Justice, UNAMI observed some improvement, with the implementation of a reform programme aimed at refurbishing, rebuilding or constructing new prisons and places of detention so as to bring their basic infrastructure in line with international standards. The programme includes redistributing prisoners to facilities classified according to the severity of the crimes for which they were convicted. It is hoped that this will facilitate better management and focused rehabilitation programmes for prisoners, and improve the security of prisons for inmates and prison staff alike. UNAMI received almost no claims of abuse from persons in detention facilities and prisons under the authority of the Ministry of Justice.

Overcrowding and lengthy periods of pre-trial detention without formal charge continue to be problems in Iraq's criminal justice system., These problems are due to a reluctance of the courts to consider alternatives to detention, , the lack of resources provided to investigating prosecutors and judges, insufficient numbers of qualified judges and other judicial personnel, and the inadequate infrastructure of the Court system. Persons detained on criminal charges often complained of a lack of access to legal counsel, either due to difficulties in affording legal counsel or due to the insufficient professionalism and effectiveness of Court-appointed lawyers.

UNAMI received a large number of allegations concerning abuse and torture in Ministry of Interior detention facilities. Detainees frequently claimed that they were arrested in security sweeps or without justification, particularly under Iraq's Anti-Terrorism Law no.13 of 2005, that they were held for prolonged periods and subjected to a range of abuse, mistreatment and torture in order to extract confessions, and that they were only transferred to Ministry of Justice facilities once confessions were made or following conviction by the courts. Detainees frequently complained that officials in Ministry of Interior facilities requested bribes to ensure that charges would be dropped and to ensure release, even if the release had been ordered by the Court.

Through its monitoring of trials, UNAMI continued to observe that courts rely on confessions obtained prior to the trial to found convictions, in some cases without any forensic evidence or independent witness testimony, and sometimes despite claims by the defendant that the confession was induced through abuse, mistreatment or, at times, torture. Existing legal provisions that render confessions obtained through duress or torture inadmissible are often ignored in judicial proceedings. The frequent reliance on confessions creates an environment that induces police and some prosecutors to believe that confessions must be obtained at all costs, including through abuse or torture of detainees, contrary to law and irrespective of the guilt or innocence of the accused.

Iraq continues to implement the death penalty, despite pleas from the international community for a moratorium on its use in accordance with UN General Assembly Resolutions 62/149, 63/138, 65/206 and

67/176. In the second half of 2012, 53 persons were executed, mostly convicted of crimes related to terrorism, thus bringing the total number of persons executed in 2012 to 123. Weaknesses identified in the criminal justice system, including abuse and torture to extract confessions, render many such sentences unsafe and risk gross miscarriages of justice.

Women continue to suffer from domestic and other forms of violence, and to face discrimination and other barriers in accessing economic, social and educational opportunities. The law continues to permit 'honour' as a mitigating factor in crimes of violence committed against women and family members. There is still no effective system of shelters and coordinated care for the victims of domestic violence, and services available to victims remain inadequate. The family protection bill remains stalled in the Council of Representatives. Women's representation at a senior level in political, governmental and judicial institutions remains low at the federal, governorate and district levels.

Children continue to be subject to domestic and other forms of violence. Children's detention centres continue to suffer from poor physical conditions and a lack of properly trained staff. Security forces often fail to treat juvenile offenders as children, and frequently incarcerate them during investigation in places of detention along with adults. Interrogation and investigation of minors are often carried out without the presence of a lawyer or guardian who can ensure that the best interests and rights of the child are respected. Poverty and lack of access to basic services continue to affect many children. Studies prepared by UNICEF and the Government of Iraq suggest that 30 percent of children live in poverty.

Iraq's various ethnic and religious groups continued to be targeted by violence. In particular, members of the Turkmen community were subjected to various acts of violence, including kidnapping, murder, harassment, and other threats. Members of religious communities, including Yezidis, Christians and Shabaks, also suffered threats and acts of violence. Shi'a pilgrims attending various religious festivals and activities similarly came under attack in various parts of the country.

While Iraq signed the Convention on the Rights of Persons with Disabilities in January 2012, the law on the rights of persons with disabilities, which is currently before the Council of Representatives, was drafted prior to Iraq's accession to the Convention. Accordingly, revisions to the draft law need to be undertaken to ensure it complies with Iraq's international obligations. Persons with physical and intellectual disabilities continued to face societal discrimination and unequal access to government provided services.

During the period under review, there were serious concerns with regard to freedoms of expression, opinion and assembly. Journalists continued to suffer harassment, abuse and sometimes violence in carrying out their professional duties – five journalists were killed in 2012. A number of media outlets were closed by the Ministry of Interior or the Baghdad Operations Command on the order of the Communications and Media Commission (CMC), which alleged that the closure orders were made because of technical issues related to lack of proper registration of the outlets concerned. However, critics claimed that the closures were politically motivated. While the draft Bill on Crimes of the Internet, which failed to comply with international standards, was withdrawn by the Parliament, a number of other draft laws under consideration remain of concern as they fail to conform to international standards.

While many demonstrations were held peacefully in various parts of the country, some were restricted by the authorities for political reasons. In some instances, demonstrators claimed that they had suffered a disproportionate use of force by the security forces.

The arrest of the bodyguards of the Minister of Finance sparked a number of demonstrations on 23 December that continued to the end of the year, particularly in Sunni dominated areas of the country. Demonstrators in Anbar, Mosul, Salahiddin and Kirkuk demanded that the Government repeal the Anti-Terrorism Law, abolish the Justice and Accountability Commission, release detainees who have been in detention beyond legal limits, particularly female detainees, and return female detainees to their governorates of origin to serve their sentences. Some protestors also demanded the resignation of the Government and the abolition of the Constitution. By the end of the year, pro-government demonstrations had started, particularly in the south of the country and in Baghdad, demanding that the Prime Minister reject the demands of Sunni demonstrators. By year's end, the situation threatened to further destabilise the country along sectarian lines.

Migrant workers continued to experience problems in Iraq and were often unaware of applicable immigration or labour laws, which prevented them from obtaining proper entry or work permits. This exposed some migrant workers to potential exploitation and abuse. Persons found to have entered Iraq

illegally or to be present or working without proper permits face lengthy jail sentences and eventual deportation.

The implementation of the National Action Plan on Human Rights, drawn up to implement the recommendations made to Iraq in February 2010 as a result of the Universal Periodic Review of the United Nations Human Rights Council continued throughout the year. By the end of the year the Government, which in December 2011 had established a cross-sectoral, inter-ministerial committee to oversee implementation of the National Action Plan, reported that it had implemented 37 recommendations and partially implemented 94. Four recommendations remained to be implemented.

The process of establishing the Iraqi High Commission for Human Rights continued through the last part of 2012. A challenge by women's groups to the Federal Supreme Court resulted in a court ruling that the quota of women on the Commission required by the establishing legislation should be five female permanent and back-up commissioners, rather than the four appointed by Parliament in April 2012. At year's end, however, the Court's ruling had not been fully implemented. Progress in establishing the Commission was hindered, however, by the failure of the Commissioners to elect a President as required by the establishing legislation, primarily due to interference by political blocs.

The Iraqi Council of Representatives passed a number of laws during the last part of 2012, including a law amending the quota for minorities in Governorate and District Council elections. In addition, the Council of Representatives passed a law ratifying the Arab Convention to Counter Organized Crime Across National Borders, which Iraq had signed in Cairo on 21 December 2010, as well as a law ratifying the 2008 Convention banning the use, development and transfer of cluster munitions. Controversially, the Council of Representatives passed the High Judiciary Law, which appointed the Head of the Court of Cassation as the Head of the High Judicial Council instead of the Federal Supreme Court. Critics were also opposed to the establishment of a committee of Islamic scholars to advise the Court, as it was unclear whether this committee would have a veto over decisions of the court.

Kurdistan Region

The overall human rights situation in the Kurdistan Region continued to improve, although challenges remain, including concerns over respect for freedoms of assembly and expression, and the protection of journalists. The Kurdistan Region experienced almost no insurgent violence, although civilians living in areas close to the international borders continued to suffer from the effects of cross-border shelling and military operations conducted by foreign forces.

The Kurdistan Region Government established an inter-ministerial committee to oversee implementation of the regional action plan on human rights, aimed at formulating a programme of legal, institutional and policy reforms to address gaps in the protection of human rights identified as a priority. Progress was made in the appointment of the Kurdistan Region Independent Board on Human Rights, which it is hoped will be established fully in early 2013 and operate independently to promote and protect the rights of the people of Kurdistan, in compliance with international standards.

The Kurdistan Region Government continued its programme of improving the physical conditions in prisons through the construction, or planned construction, of new detention facilities, and the introduction of rehabilitation programmes. However, some instances of overcrowding were noted. Reports of abuse remained low and the Kurdistan Region Government showed itself generally to be proactive in investigating allegations of abuse or mistreatment within its facilities. Concerns remain, however, regarding the treatment of those accused of committing acts of terrorism, some of whom continued to be held for extended periods without charge or trial, and in relation to some persons detained in areas around Mosul by Asayish forces.

Progress was made towards full implementation of the Law on Combatting Violence Against Women, with the establishment of a high level inter-ministerial committee to oversee implementation of the law, and the adoption of a five-year plan to combat violence against women, along with other reforms and initiatives.

There are continuing concerns about the freedom of expression with some reports of journalists being targeted, threatened or intimidated on account of their reporting.

The Kurdistan Region Government passed a law granting financial and other forms of support to people suffering from cancer and other terminal illnesses, including financial support to seek medical treatment and care within the Region or overseas. A law on children's rights remained before the Kurdistan Region Parliament at the end of the year.

Human Rights in Iraq: July – December 2012

1. Introduction

The respect and protection of human rights remains at a crossroads in Iraq. Despite some improvements the political situation and events within the region have impacted negatively on the security and human rights situation in Iraq.¹ Of major concern, violence, including terrorist acts targeting civilians, which had been in decline since 2008 through to 2011, reversed in 2012, with the year witnessing the highest civilian casualty rate since 2009. Increasing violence also affected basic infrastructure, and economic and social development. Respect for due process and fair trial standards, as guaranteed by international law and the Constitution of Iraq, remained inconsistent. While improvements were seen in prisons run by the Ministry of Justice (MoJ), many detainees continued to complain of abuse, mistreatment and torture at the hands of Ministry of Interior (MoI) personnel following arrest and during the investigation phase, often with the intention of forcing confessions, before transfer to MoJ facilities. Such complaints were frequently made by persons detained under the Anti-Terrorism Law no.13 of 2005 (“Anti-Terrorism Law”). Courts remain under-resourced, contributing to long delays in processing cases beyond time-limits established by law and over-crowding in many prisons and detention centres. Courts also continue to rely in many cases solely on confessions obtained during pre-trial detention in reaching their verdicts and rarely investigate claims that confessions have been obtained under duress, despite such confessions being inadmissible under Iraqi law. Iraq continued to implement death sentences, despite weaknesses in the criminal justice system.

Respect for the rights of women, children and persons with disabilities remained inconsistent – with these groups facing discrimination and other social, cultural and legal barriers in accessing basic goods and services and impairing their rights to participate fully in the economic, social, and political life of Iraq. Members of Iraq’s diverse ethnic and social groups also continued to be targeted by violence. While reports of violence against Christians declined during the last half of 2012, members of the Turkmen community were increasingly targeted in acts of terrorism, assassination, and kidnapping. Tensions between Christians and Shabaks in the north of Iraq and violence directed at other minorities remained of concern. Shi’a religious events were also targeted by terrorist groups.

Respect for freedom of expression, freedom of opinion and freedom of assembly also remained inconsistent. Many demonstrations were held throughout the country over various issues, many passing off peacefully and without incident – however, some demonstrations appeared to be prohibited based on political grounds. There were sporadic acts of violence in relation to some demonstrations. Journalists and media professionals continued to be targeted in acts of violence. One journalist was killed in the second half of the year - and a number complained of harassment and abuse at the hands of security forces in connection with undertaking work related to their professions, particularly those covering demonstrations or sensitive issues, such as corruption. The Communication and Media Commission also ordered the closure of a number of media outlets, based on improper registration and licensing issues – although critics claimed that the closures were politically motivated. Although the Council of Representatives dropped a controversial Bill on crimes of the internet which was incompatible with international law and the rights of freedom of expression and opinion, a number of other bills that are of concern remain before the Parliament.

The economic situation within the country continues to affect large numbers of Iraqis, many of whom continue to face problems accessing basic services, including electricity, clean drinking water, education, health care, housing and economic opportunity. The situation is particularly acute in the rural areas, in the south of the country, in areas affected by insecurity, and in disputed areas such as Mosul and Kirkuk.

Iraq continued to make progress on a number of fronts – including the implementation of the National Plan of Action on Human Rights (adopted by the Government at the end of 2011) and the establishment of the

¹ The Ministry of Human Rights (MOHR) in its comments on this report provided to UNAMI on 23 May 2013 generally observed that UNAMI had concentrated on the problems facing Iraq and had not clearly dealt with the achievements that Iraq had in promoting the respect and protection of human rights. In this respect, the MOHR claimed that UNAMI’s report was unduly negative and not balanced.

Independent High Commission for Human Rights. There was an expansion in the number of family protection units to police stations in Basra and Kirkuk, aimed at responding to domestic violence claims by women and children. However, these units remain under-resourced and poorly staffed. Some legislative reforms were introduced, including ensuring minority representation on Governorate and District Councils. Iraq ratified the Arab Convention to Counter Organized Crime Across National Borders and the Convention banning the use, development and transfer of cluster munitions.

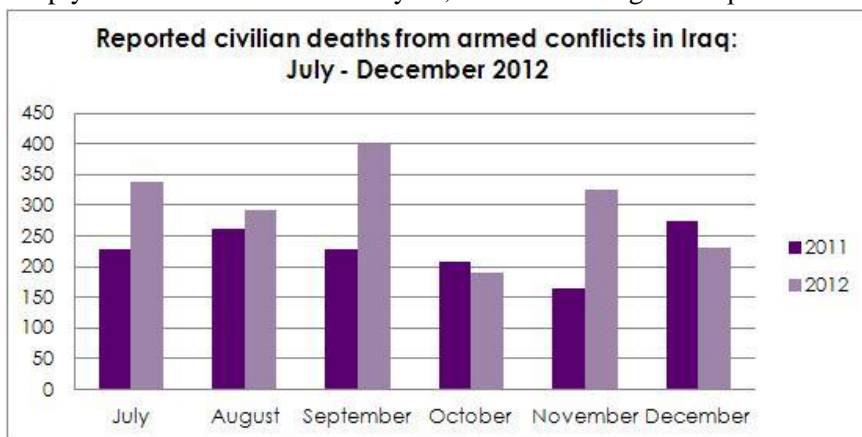
The situation in the Kurdistan Region remained stable, although civilians living in areas close to the international border continued to suffer from cross-border shelling and military operations by foreign forces. The Kurdistan Regional Government (KRG) remained committed to introducing legislative, institutional and policy reform aimed at enhancing the respect and protection of human rights within the region. The KRG moved to implement the Family Protection Law, particularly concerning the protection of women and children from domestic and other forms of violence. It also adopted a four year plan to combat violence against women and committed to reforming the law relating to persons with disabilities to ensure its compliance with international obligations. The KRG established an inter-ministerial committee to oversee implementation of the Kurdistan Region Action Plan on Human Rights and moved to formally appoint the President of the Kurdistan Region Board of Human Rights.

In accordance with standard practice, this report was shared with the Government of Iraq (GoI) and the KRG for their comments, inputs and concerns.²

2. Armed Violence and Civilians

Violence perpetrated by armed groups and acts of terrorism took an increasing toll on men, women, and children in Iraq, outside of the Kurdistan Region, throughout the second half of 2012. According to information gathered by UNAMI, while the number of violent attacks recorded during the last six months of the year remained relatively stable compared with the first half of the year, the death and injury toll increased sharply. In the latter half of the year, a series of large ‘complex’ attacks, carried out in civilian locations,

each left scores of civilians and security personnel killed and many others injured.



According to official government figures, 1,704 civilians were killed in conflict-related incidents in the last six months of 2012. Furthermore, government figures indicate that 6,651 civilians were wounded. Figures from UNAMI’s direct monitoring indicate that during the last half of the year at least

1,892 civilians were killed and 6,719 were injured in armed violence in Iraq.³ This represents a rise of 546, or 40.6 percent, in the number of civilian deaths and an increase of 3,059, or 83.6 percent, in the number of civilians injured, as a result of armed violence and terrorist acts compared with the first half of the year.

UNAMI data shows that violence and the impact on civilians steadily increased every month between July and December. The worst month for deaths was November, when 445 civilians died and 1,306 were injured, but July had higher overall casualties (deaths and injuries) when 338 civilians were killed and some 1636 were injured. September saw 398 civilians killed and a further 1478 injured.. October saw the lowest rate of civilian casualties, with 189 civilian deaths and 545 civilians injured. As in the first half of the year, violent

² In its comments on the report provided to UNAMI on 23 May 2013, the Ministry for Human Rights (MoHR) stated that UNAMI should take into account, in assessing the human rights situation in Iraq, that the country faces acts of terrorism that threaten the existence of the State and the peaceful coexistence of Iraq’s people.

³ UNAMI relies on direct investigation, along with credible secondary sources, in determining civilian casualties. UNAMI figures are conservative and may under-report the actual number of civilians killed and injured for a variety of reasons. Where different casualty figures are obtained for the same incident, the figure as verified by UNAMI is used.

incidents were most concentrated in the Governorates of Baghdad, Ninewa, Kirkuk, Anbar and Salahiddin – although there were some sporadic acts of violence outside of these areas.

According to the Government the total number of civilian casualties for 2012 amounted to 3,102 killed (including 266 women and 158 children) and 12,146 injured (including 1,133 women and 854 children). UNAMI's figures indicate during 2012 that at least 3,238 civilians were killed and 10,379 were injured. This represents a rise of 467, or 16.8 percent, in the number of civilians killed and an increase of those injured of 2,418, or 30.4 percent, compared with 2011, when UNAMI recorded a minimum total of 2,771 civilian deaths and 7,961 civilians injured. In overall casualty numbers (killed and injured) 2012 saw 13,617 casualties compared with 2011 which had 10,732 casualties; signifying a rise overall between 2011 and 2012 of 2885 casualties or 26.9 percent.

All statistics show that the decline in violence and its impact on civilians experienced since the peak of violence in 2007 has begun to reverse, with the country facing a sustained level of violence with an increasing detrimental impact on civilians, that looks set to continue for the near future. Non-State armed groups continued to favour asymmetric methods that result in indiscriminate loss of life in terms of civilians. On occasion, civilians and civilian infrastructure, including markets, places of worship, schools and public spaces were specifically targeted. UNAMI recorded at least 1007 incidents involving the use of improvised explosive devices (IEDs) and vehicle-borne improvised explosive devices (VBIEDs) in the last six months of the year. Although the perpetrators of such attacks are often unknown, the frequency of such attacks and the high number of victims among civilians, indicate that a number of non-State armed groups operating in Iraq continued to engage in a sustained campaign of violence, directed primarily against civilians, or execute their agenda heedless of the toll inflicted on civilians.⁴

The motivations for attacks remain complex – including political, ethnic, and religious. Some attacks appear to have been in response to political developments. Political divisions, which are increasingly sectarian in nature, have exacerbated instability and heightened tensions between various political and sectarian groups. Events in neighbouring countries, particularly in Syria, also had a destabilising effect on patterns of violence, with information suggesting that members of armed groups and some weaponry may be moving back and forth across the border.

Iraq suffered its worst day of violence for two years on 23 July, when more than 107 people were killed and more than 200 wounded in a wave of bombings and shootings. An attack by gunmen on an army post at Dhuluiya, 45 miles north of Baghdad, in which 16 soldiers were shot dead or killed by grenades, heralded a series of bombings across the country. Car bombs were detonated in Sadr City in Baghdad (a large, poor Shi'a neighborhood which is a regular target for sectarian killing), Hussainiya (another predominantly Shi'a suburb), the towns of Taji and Khan Bani Saad (just to the north of Baghdad), and Kirkuk (a city contested by Arabs, Kurds and other ethnic groups). In total, insurgents mounted at least 27 different attacks in 18 cities across the country.

On 9 September, more than 77 people were killed and 340 injured in attacks all over Iraq. For the first time since January 2012, the southern provinces of Basra, Missan and Thi Qar suffered attacks that appeared to target civilians directly, leaving approximately 30 civilians dead and dozens more injured. A VBIED detonated in al-Mistar market, in Central Basra, killing three members of the Iraqi Security Forces (ISF) and injuring 25 civilians. Another VBIED detonated near the French honorary consulate in Nasiriyah (Thi Qar governorate), killing 2 civilians. In Al Sharqi in Maysan Governorate, a VBIED near the shrine of Imam Ali al-Sharqi killed 30 civilians. These attacks are believed to have been in reaction to a death sentence passed by the Central Criminal Court of Iraq (CCCI) on Vice-President Al Hashemi and his son-in-law, Ahmed Qahtan.

On 14 November four VBIEDs were detonated in and around Kirkuk, killing 12 civilians and injuring approximately 54 others. Two successive explosions targeted the offices of a Kurdish political party in Al-Faylaq area of Kirkuk city. Another targeted the headquarters of the Iraqi Turkmen Front. An explosion also occurred in a parking lot in Haweja District in Kirkuk city. On 17 December, two car bombs exploded in Al-Amal Al-Shaaby area in Jamila quarter of Duz district, east of Tikrit, killing five, including two children, and injuring 26.

⁴ In its comments on this report, the MoHR stated its view that Iraq is no longer suffering from a non-international armed conflict as defined in the Geneva Conventions of 1949, but is suffering a crisis of security and acts of terrorism.

On 31 December, there were around nine attacks carried out in Kirkuk and Salahiddin governorates. Ten persons were killed and around nine injured in a series of car bombs. Among these were one in Dijla sub-district south of Tikrit in Salahiddin, that killed two civilians; another near a fuel station in Yathrib sub-district in Balad, that killed three persons and injured four others; a third was detonated south of Samarra, near Tikrit, killing a police officer; while a fourth was detonated in Dijla sub-district and appeared to target the Chair of the Salahiddin Provincial Council, Mr. Ammar Yousif, who survived the attack.

Assassinations continued to claim the lives of many Iraqis. Members of the Iraqi Police were the most frequently targeted. Other victims included teachers, legal professionals and government officials. Often family members and other civilians were killed or wounded in these attacks. The perpetrators of such attacks often remained unknown.

For example, on 12 August, the Mayor of Sleman Bag district and four of his guards were injured in a roadside bomb that targeted his convoy. On 5 September, in Salahiddin, a Provincial Council member from the Iraqi Turkmen Front survived an assassination attempt when rockets targeted his car in front of his house in Duz district, east of Tikrit. On 28 September, the former Basra Governor, Muhammad Msabbah al-Waili, was assassinated in central Basra. On 16 October, a Kirkuk City Council member from Riyath sub-district survived an assassination attempt when two roadside IEDs targeted his car, while on 21 September a member of the Arab Tribes Council survived an assassination attempt with an IED exploded outside his home in southern Kirkuk. On 2 October, unknown armed persons assassinated the sheikh of the Shamar tribe along with his cousin near Yangaja village in Dakuk District of Kirkuk Governorate, although in this case the murder may have been related to a property dispute. In late October, an IED targeted unsuccessfully the Diyala Governor while he was driving from Diyala to Ninawa through Kirkuk. On 9 December, the District Commissioner of Duz district, east of Tikrit, survived an assassination attempt from a car bomb. On 18 December, an Iraqi Parliament member from the Free Iraqiya list, Qutaiba Al-Jubori, and the Salahiddin Governor, Ahmed Abdullah, both survived a car bomb that targeted their motorcade on the main road between Al-Alam sub-district and Tikrit in Salahiddin. On 30 December, the Deputy Governor of Kirkuk, Rakan Saeed, survived an attempted assassination when an IED detonated near Khirbat Aziz village in Haweja district in Kirkuk. One of his guards was wounded. No groups claimed responsibility for any of the above-mentioned incidents.

Many civilians were also killed collaterally in attacks targeting members of the security forces and other Government officials. For example, on 7 July, a VBIED planted under a car detonated in Al-Askari quarter in Haweja district, killing four members of the family of a police officer in charge of patrols in the district. On 23 July, five civilians died and ten others were wounded when a car bomb targeted the house of a police officer in Al-Dor district east of Tikrit. Four of those killed were family members of the police officer and the fifth was a civilian passing by at the time the bomb detonated. On 2 August, three members of the Al-Sahwa forces were killed by an IED at a checkpoint south of Tikrit. On 9 September, two policemen and one civilian died and 121 civilians were wounded when a car bomb detonated near the Office of Police Intelligence and Federal Investigation in Tareeq-Baghdad quarter in Kirkuk, while another eight civilians were killed and 29 were wounded when a car bomb targeting a police station exploded in the K1 area in the northwest of Kirkuk. On 15 October, two brothers who were members of Al-Sahwa forces and their father were killed during an armed attack on their house south of Tikrit. On 17 October, two civilians were wounded when an IED targeting a police patrol transferring detainees from Salahiddin to Sulaimaniya Governorate was detonated in Kirkuk city.

Judges, lawyers and others working in the civil or criminal justice systems continued to be singled out for attack. On 8 August, unidentified gunmen killed a lawyer and his son and six other members of his family in their house in the center of Baiji, north of Tikrit. On 5 September, a female judicial investigator and one policeman were killed when gunmen opened fire on them in Duz district of Tikrit. On 14 October, the bodyguard of a judge was seriously injured in an attack in Shirqat district in Salahiddin. A Judge of the Kirkuk Personal Status Court survived an assassination attempt when an IED was detonated outside his house on 8 November. On 14 December, a lawyer was injured in Tikrit when a sticky bomb under his car detonated.

In addition, the bodies of at least 12 persons were found in Kirkuk and Salahiddin Governorates. Many of the bodies carried torture marks and some appeared to have been executed. For example, on 29 July, the police found the body of a boy – the son of a border guard – thrown on the roadside near Qfar village in Shwan sub-district north of Kirkuk. The boy had been handcuffed and blindfolded, and had suffered gunshots to the head and chest. On 26 August, the body of an unidentified woman carrying marks of strangulation and other

signs of violence was found on the roadside in Khalubazian area north of Kirkuk. On 3 September, the body of a man was found on the roadside in Bajawan area of Dibis district, northwest of Kirkuk, handcuffed and blindfolded, with signs of having been slashed with a sharp implement.

There were at least ten cases of kidnapping reported from Kirkuk, targeting different categories of persons within the community. It should be noted that statistics on the number of kidnappings are not accurate due to the fact that many cases go unreported by families or witnesses from fear of reprisals, or because of traditional practices and customs which holds the victims responsible (particularly in cases of kidnapping and sexual assault of women and girls), or because of mistrust or fear of the police and other Government institutions. Likewise, the motivations behind kidnappings range from criminal to political. On 12 September in Yathrib sub-district of Balad district, south of Tikrit, unknown gunmen kidnapped the 13 year-old nephew of a Judge from Salahiddin Province. In Rahim Awa area of Kirkuk on 21 November an armed group kidnapped a taxi driver. On 20 December, in Mamlaha sub-district in Samarra, Salahidin governorate, two electricity engineers were kidnapped by unidentified armed men. On 24 December another armed group kidnapped a civilian in Samarra.

It should be noted that Iraqi security forces managed to find and free a number of kidnap victims relatively quickly and unharmed. On 12 October, two kidnapped young men were released from Haweja district of Kirkuk the day after they had been kidnapped. In Salahiddiin, the police managed to release 10 kidnapped persons from July to December 2012. On 5 July the military freed an 18 year old man who had been kidnapped 15 hours earlier and arrested the gang responsible in an operation conducted in Al-Farhaniyya area in Balad. On 14 October, police in Salahiddin managed to free two abducted men one hour after being kidnapped by unidentified armed men in Shirqat district north of Tikrit. On 18 November, the police managed to free unharmed another kidnap victim in Amirli sub-district east of Tikrit.

The targeting of civilians constitutes a serious violation of Iraqi criminal law and of international humanitarian and human rights law. The GoI is obliged to do its utmost, within the limits of the law and in compliance with international legal obligations, to bring the perpetrators of such crimes to justice and take measures to protect civilians and civilian infrastructure from the direct and indirect effects of violence.⁵

The coordination of financial, medical and psycho-social support to all victims of violence remains of particular concern both to the GoI and to UNAMI. During 2012, the Ministry of Human Rights (MoHR) monitored terrorist incidents and received reports from the relevant ministries on the care and protection of families displaced or affected by violence. During the last six months of the year, the MoHR also paid visits to the victims of terrorism and displaced families in all Governorates to monitor their follow-up care. The GoI also provided compensation to the families of the victims of terrorism in relation to 54,415 cases.

The GoI held a conference on the victims of terrorism under the auspices of the Prime Minister, Nuri Al-Maliki, and the Minister of Human Rights, Eng. Mohammed Al-Sudaani, on 8-9 October in Baghdad. The conference was also held in a number of governorates, including Thi Qar, Karbala, and Najaf. During the conference, many victims of violence complained that they had not been provided with adequate financial, medical or psycho-social support from the Government or had not been able to access such services. Recommendations concentrated on ways to strengthen the powers of security forces in tackling terrorist violence, but did not produce anything substantial on improving the care of the victims of violence, or facilitating their access to support, nor did it consider ways to tackle the root causes of terrorism and violence.

UNAMI continues to receive complaints regularly from ordinary Iraqi civilians who have been directly or indirectly affected by acts of terrorism and armed violence. These complaints centre on the lack of access to coordinated essential Government services, including appropriate medical care, psychological and physical support, and financial help. UNAMI has been informed that a Department of Citizens Affairs and Public Relations has been established within the General Secretariat of the Council of Ministers to better coordinate access by citizens to public services, including health care and financial and other means of support, and that it actively looks into cases where civilians claim to have been victims of violence but unable to access Government services. However, the Government needs to do more to ensure that citizens who are the direct

⁵ According to the MoHR in its comments to this report provided to UNAMI on 23 May 2013, the Government of Iraq has implemented counter terrorism policies that are in line with Iraq's international obligations and the Constitution of Iraq, including those aimed at combatting international crimes and terrorism.

or indirect victims of violence have appropriate access to coordinated and effective health, social and financial support. In addition, the Government should consider developing policies aimed at addressing the root causes of terrorism, particularly those related to poverty and lack of educational and economic opportunities, that leave some members of the community vulnerable to exploitation by terrorist and armed groups.

2.1 Armed violence in the Kurdistan Region

From the beginning of July, aerial bombardments and mortar attacks on border areas in the Kurdistan Region increased as a result of the conflict between Turkey and the *Parti Karkerani Kurdistan* ('Kurdistan Workers Party' or 'PKK') and *Partiya Jiyana Azad a Kurdistanê* ('Free Life Party of Kurdistan' or 'PJAK'). UNAMI received reports of 22 air attacks and 13 artillery attacks by Turkish forces on border areas of Dahuk and Erbil provinces. The attacks were targeted at locations close to inhabited areas and caused the death of two civilians on 3 November in Maradu village, Sulaimaniya governorate.⁶ Attacks also caused damage to agricultural areas and civilian houses, and prevented access to improved drinking water and other essential services.

3. Detention and the Rule of Law

Information on the administration of justice is obtained by UNAMI from monitoring of prisons and detention centres and trials, collection of testimony provided by current and former detainees and prisoners, and information provided by family members of prisoners, members of the Council of Representatives and the Human Rights Committee of the Council of Representatives, Government sources, lawyers, prosecutors and judges working within the criminal justice system. UNAMI does not rely on media reports to gather information on the conditions and standards of detention centres and prisons or the operation of the criminal justice system.

As reported previously, UNAMI reached a comprehensive agreement with the MoJ on a framework for the conduct of prison monitoring visits. The framework guarantees to UNAMI full, unhindered access to all federal prisons in Iraq, confidential access to detainees and correctional services staff, and protection of individuals making allegations of abuse or mistreatment. The agreement also includes the mechanism by which issues identified as a result of the monitoring visits will be addressed. UNAMI applauds the cooperation and good-will shown by the MoJ staff, the Prison Reform Directorate of the MoJ, and the Minister of Justice himself, in addressing the issues raised by UNAMI as a result of its prison monitoring.

UNAMI regrets that a similar agreement has not been reached with the MoI, which continues to deny access to detention facilities under its authority. This is of particular concern as nearly all allegations of abuse, torture and denial of due process rights concern persons held in MoI detention facilities during initial investigation and pre-trial phases, prior to their transfer to facilities under the authority of the MoJ.

As noted in previous reports, Iraq has inherited a system of administration of justice that has been characterised by abusive practices for decades. Establishing the capacity and accountability of authorities involved in the administration of justice will take time, as will engendering a culture wherein the rights of persons subject to criminal justice system are fully respected. In a number of conversations with UNAMI, senior representatives of the GoI have readily acknowledged that there are significant challenges facing the administration of justice in Iraq, including abuse of detainees in some instances. The Government has instituted a number of reforms and initiatives aimed at addressing some of the chronic problems associated with prisons and places of detention, although key reforms remain to be done.

UNAMI has noted a marked improvement in the administration of prisons and detention facilities under the authority of the MoJ. The MoJ has embarked on a reorganisation of its prisons throughout Iraq, including the refurbishment, reconstruction or construction of new facilities so as to improve the physical environment in accordance with international standards, ensuring the separation of pre-trial detainees and convicted prisoners, and categorising detention facilities and prisons according to the severity of the crimes alleged to have been committed or for which the prisoner has been convicted. The MoJ is also actively examining ways to improve or enhance the provision of services to prisoners, including medical and psychological support, and rehabilitation and vocational programmes.

⁶ UNAMI interviewed mayor and community leaders by phone to confirm the fatalities.

Despite these improvements, some prisons visited by UNAMI under the authority of the MoJ remain overcrowded and suffer from poor infrastructure. However, it is hoped that many of these problems will be resolved once the programme of reconstruction and refurbishment being conducted by the MoJ is completed.

Outside the authority and responsibility of the MoJ, UNAMI found that detainees are frequently held for prolonged periods in pre-trial detention, often without access to legal counsel, owing to lack of resources for prosecutors or courts and a reluctance to utilise bail provisions where appropriate. UNAMI also continued to receive sporadic reports that authorities at times failed to release detainees as ordered by the courts at the conclusion of judicial investigations or trials, or after sentences had been served. In some cases delays appeared to be due to bureaucratic obstacles or the fact that the detainee was facing further charges and there was no bail order authorising his or her release.

In contrast to facilities under the authority of the MoJ, UNAMI continued to receive frequent reports from current and former detainees or their relatives and associates alleging incidents of arbitrary arrest, particularly in connection with the Anti-Terrorism Law, and subsequent denial of due process, as well as abuse, including torture and other forms of mistreatment. Nearly all such allegations concerned pre-trial detainees held in detention facilities under the authority of the Ministry of Interior (MoI) or the Counter-Terrorism Directorate (CTD).

In UNAMI's view, many of the problems faced by Iraq's detention facilities and prisons are partly due to the fact that prisons and detention centres are run by a range of Ministries and security agencies, with little coordinated oversight or accountability.⁷ Responsibility is split between the MoJ, MoI, Ministry of Defence (MoD) and the Ministry of Labour and Social Affairs (MoLSA), while security for prisons and detentions centres is often in the hands of police or military units. Assurances by the GoI that more uniform oversight of detention facilities will be introduced have yet to be implemented.⁸ Reliance by the courts on confessions also contributes to a culture where torture and abuse of detainees are seen by some officials as legitimate means to secure convictions, particularly in the case of persons detained under the Anti-Terrorism Law.

3.1 Numbers in detention

According to the MoHR and MoJ, there are 42,360 persons in detention in Iraq as at 31 December 2012. Of these, 19,393 are pre-trial detainees being held for investigation or on remand: 10,554 by MoJ, 7,838 by MoI, 780 by the MoD, and 221 by MoLSA. There are 22,967 convicted prisoners being held in Iraq's prisons: 20,609 by MoJ, 1,351 by MoI, and 1,007 by MoLSA. Also, of the total number, there are 1,165 women in detention: 487 who are awaiting trial and 678 convicted prisoners. There are 1,766 juveniles being held in detention facilities: 1,372 have been convicted and 394 are in pre-trial detention.

PRE-TRIAL DETAINEES IN IRAQ: JULY – DECEMBER 2012						
Authority	July	August	September	October	November	December
MoJ	19,262	9,566	11,476	10,319	10,748	10,554
MoI	5,870	5,905	6,509	8,229	6036	7,838
MoD	446	447	517	685	776	780
MoLSA	232	308	233	243	227	221
Total	25,810	16,226	18,735	19,476	17,787	19,393

⁷ In its comments on this report provided to UNAMI on 23 May 2013, the MoHR noted that it undertakes monitoring of all Iraq's detention centres and prisons and refers all problems, including lack of adherence to international and national legal standards to relevant ministries to rectify. MoHR further notes that all issues raised by UNAMI are addressed in its own report on human rights in Iraq for 2012 available on its website <<http://www.humanrights.gov.iq/>>

⁸ The MoHR along with the MoJ are advocating that all detention facilities should be handed to the responsibility of the Prison Reform Directorate under the MoJ.

CONVICTED PRISONERS: JULY – DECEMBER 2012						
Authority	July	August	September	October	November	December
MoJ	19,525	19,178	17,646	19,890	20,211	20,609
MoI	1,406	1,281	1,047	1,267	1,225	1,351
MoD	--	---	--	---	---	---
MoLSA	999	932	1,006	987	1,005	1007
Total	21,930	21,391	19,699	22,144	22,441	22,967

WOMEN DETAINEES: JULY – DECEMBER 2012						
	July	August	September	October	November	December
Pre-Trial	455	418	461	518	488	487
Convicted	635	618	636	640	651	678
Total	1,090	1,036	1,097	1,158	1,139	1,165

JUVENILE DETAINEES: JULY – DECEMBER 2012						
	July	August	September	October	November	December
Pre-Trial	339	471	366	422	423	394
Convicted	1,293	1,224	1,254	1,357	1,363	1,372
Total	1,632	1,695	1,620	1,779	1,786	1,766

3.2 Respect for due process

UNAMI continues to receive regular reports from Iraqi citizens alleging that due process rights of persons in detention, including those enshrined in articles 9 and 10 of ICCPR, are not respected.⁹

Suspects are reportedly arrested without being informed of the charges against them, sometimes without a warrant, particularly under the Anti-Terrorism Law, which grants sweeping powers to law enforcement officials to arrest and detain individuals on a mere suspicion of involvement in illicit activities, and to hold

⁹ According to the MOHR in its comments on this report provided to UNAMI on 23 May 2013, the Inmate and Detainees Institutions Reform Law is currently before the Council of Representatives. This act aims to address prolonged detention without charge and trial, and also establishes special reformatory schools for juvenile detainees as an alternative to incarceration.

such persons without charge, and without access to lawyers or family members, for prolonged periods.¹⁰ Many of those detained and subsequently released claimed that the real motivation for their arrest was their failure to pay bribes to security officials or that they had been arrested for sectarian, political or other reasons. Persons detained under the Anti-Terrorism Law are usually held for investigation in detention facilities under the authority of the MoI or the CTD, although there is no lawful authority for persons to be held in detention under the MoI beyond a limited period. In this regard, it should be noted that the Criminal Procedure Code requires that persons arrested in relation to criminal charges can only be held for 24 hours, which period may be extended to a maximum of 72 hours, before being formally indicted and presented to the Court, at which stage the detainee should be transferred to detention facilities under the MoJ. However, the Criminal Procedure Code provides an exception for persons facing capital crimes. As conviction under various articles of the Anti-Terrorism Law carries the death penalty, this permits investigating prosecutors and judges to order the continued detention of suspects charged under its provisions for six monthly renewable periods, almost indefinitely, in apparent contradiction to ICCPR, article 14(3)(c).¹¹ It appears that many such suspects are held in detention facilities under the MoI and are not transferred to facilities under the MoJ until confessions are obtained or until they are convicted by a Court (see below, 3.4 Allegations of Mistreatment).

UNAMI notes that it is difficult to follow up on cases of individuals arrested under Iraq's Anti-Terrorism Law, as UNAMI has not been granted access to the facilities operated by the MoI. Family members have told UNAMI that on occasion they have not been informed of the place of detention. Detainees, once released, frequently alleged to UNAMI that they had been detained incommunicado or in undisclosed places of detention, without access to their families, lawyers or, at times, judicial investigators, and without formal charge or trial.

This problem appears to be particularly acute in Ninewa Governorate, where family members of individuals detained by the Iraqi army have informed UNAMI that they were unable to find out where their family members were being held. Also in Ninewa, families of persons detained by the Iraqi army have told UNAMI that their relatives were denied access to legal representation and held without charge or trial for prolonged periods.

More generally and in relation to persons facing non terrorism-related criminal charges, many current and former detainees complained to UNAMI that they were held on remand while awaiting trial for longer than is legally permissible, primarily due to under-resourcing of investigative prosecutors and judges. Prolonged periods in pre-trial detention are common across Iraq.¹² MoJ officials frequently voiced their concern to UNAMI about the lengthy periods of pre-trial detention to which some detainees are subjected.

UNAMI frequently received complaints from detainees that they suffered from a lack of regular access to legal counsel, as required by ICCPR, article 14(3)(d), mainly because they could not afford to appoint lawyers – a situation that was commonly reported by female detainees.¹³ Many detainees alleged that the first

¹⁰ According to the MOHR in its comments on this report provided to UNAMI on 23 May 2013, Iraq is in the process of implementing its obligations under the International Convention for the Protection of All Persons from Enforced Disappearance by establishing an inter-ministerial committee to make recommendations on incorporating the provisions and standards of that convention into Iraqi law.

¹¹ According to Article 19, paragraph 13 of the Criminal Procedure Code no. 23 of 1971, a preliminary investigation report must be submitted to the competent judge in a period not exceeding 24 hours from the arrest of the accused person. According to the same law, this period can only be extended once for a further 24 hours. In practice however, it appears that this period is often extended to 72 hours. For all non-terrorist related crimes, the accused is then transferred to the competent investigation court to initiate an inquiry. According to paragraph 109 of the Criminal Procedure Code, if the person is accused of an offence punishable by a period of detention not exceeding 3 years, by imprisonment for a fixed term of years or by life imprisonment, the judge may order that the accused be held for a period of no more than 15 days (which is extendable for further 15 day periods) or may release the accused on a pledge with or without bail from a guarantor, if the judge is satisfied that release of the accused will not lead to her or his escape and will not prejudice the investigation. If the person is accused of an offence punishable by death, the accused can be held in remand for a period as long as is necessary for the investigation to proceed, up until the examining judge or court issues a decision in the case.

¹² The MoHR has been active in monitoring cases of prolonged pre-trial detention and is working with the MoJ and the High Judicial Council to find solutions to the problem.

¹³ According to the MoHR many cases were detainees were denied access to legal counsel or visits by family members were largely confined to facilities run by the MoI and MoD.

meeting with their court appointed lawyers was at their trial. Nevertheless, UNAMI noted that visits by lawyers to persons held in detention centres under the MoJ are unhindered, and that detainees in these facilities, insofar as they had legal representation, were able to meet freely with their lawyers on demand, and to meet with family members on a regular basis.

UNAMI continued to receive allegations from some former detainees that even after acquittal by the courts, they had been required to pay substantial ‘fines’ to prison or police officials to secure their release. A number of persons released from MoI detention facilities, or family members of these persons, informed UNAMI that authorities demanded ‘fees’ to ensure that charges, usually in relation to alleged terrorist acts, would be dropped.

UNAMI remains concerned about the situation of women subject to the criminal justice system.¹⁴ Although localized statistics appear to demonstrate that some progress is being made in relation to the problems faced by women in prison, other aspects remain deeply troubling. For example, in the south of the country, data collected by UNAMI on women in one prison in Basra show that pre-trial detention periods have decreased consistently, from up to several years in 2010 and earlier, to a maximum of six months in 2011, to no more than three months in 2012. Currently 15 percent of the women were serving prison sentences for terrorism. However, in 2012, no new arrests of terrorism suspects were made and the number of terrorism suspects awaiting trial dropped to 6 percent of all pre-trial detainees. In contrast to this positive trend, it should be noted that a large percentage of the prisoners were still serving sentences for very serious crimes: with 28 percent imprisoned for murder. UNAMI is also concerned at the excessive harshness of some sentences: 15 percent of the convicts had received prison terms ranging from 15 years to life for adultery or prostitution; and two thirds of all women convicted for murder had been sentenced to death. In Baghdad, for example, UNAMI found a number of women in the Rusafa women’s detention centre, who had been sentenced to 15 years imprisonment for adultery or prostitution.

In one case documented by UNAMI in Basra, a female Iraqi refugee who had returned to Iraq to search for her relatives was arrested twice in two different provinces, apparently only because she was an unaccompanied woman who had a relatively large sum of money in her possession. Only repeated interventions by lawyers and UN representatives secured her release two months after her initial arrest.

Due to the unique dual administration in parts of Ninewa Governorate, Kurdistan Region, Asayish and Peshmerga operate along with the Iraqi police and army. Detainees arrested by Asayish are held in detention facilities in the Kurdistan Region, which can lead to delays in bringing accused persons to trial, as courts in the Kurdistan Region have no jurisdiction over crimes committed outside the region, and mechanisms for the transfer of detainees do not function.¹⁵

3.3 Standards of detention

As a result of the agreement between UNAMI and the MoJ, UNAMI conducted approximately 20 monitoring visits to prisons and places of detention throughout Iraq outside of the Kurdistan Region: six visits to various prisons in Basra, four visits to facilities in Baghdad, five to prisons in Kirkuk, and regular visits to the federal prisons in Chanchamal and Susa (located in the Kurdistan Region).

The MoJ continued with its process of reform of the detention facilities and prisons under its authority. This process includes the closure of certain facilities whose physical conditions fall below acceptable standards, earmarking others for refurbishment or reconstruction, and the construction of new facilities.¹⁶ The process also includes the resorting of pre-trial detainees and convicted prisoners to ensure their separation and to group them according to the severity of the crimes they are alleged to have committed or for which they have been convicted. For instance, the Al Baladiyat detention facility has been closed and there are plans to

¹⁴ According to the comments on this report provided to UNAMI on 23 May 2013, the MoHR stated that issues facing women prisoners and detainees, noted in its report on human rights for 2012, include overcrowding of women’s detention centres, delays in processing cases and prolonged detention, and allegations of torture and abuse.

¹⁵ The MoHR confirmed to UNAMI that in some visits to detention centres in the Kurdistan Region it had discovered individuals in detention who had been arrested in Mosul, Kirkuk and Diyala, despite the fact that such persons should be held in detention facilities and tried before courts in the Governorate where the crimes were perpetrated. The MoHR stated that it is negotiating the issue with the High Judicial Council of the Kurdistan Region.

¹⁶ The MoJ, as part of its five year plan, intends to build a new prison in Babel Governorate with a capacity for 18000 detainees, as well as continue the works refurbishing and expanding Baghdad Central Prison (Abu Ghraib).

refurbish it to serve as a women's detention centre. The Baghdad Central Prison (Abu Ghraib) and three other facilities have been refurbished or are in the process of refurbishment or reconstruction, and have been designated to hold persons charged with or convicted for terrorism-related crimes.

Where UNAMI has conducted monitoring visits of prisons and places of detention, improvements in the physical conditions were found, although overcrowding,¹⁷ separation of pre-trial detainees from convicted prisoners, ventilation, and sanitation remain problematic in some centres.¹⁸ UNAMI is particularly concerned over the conditions of federal prisons in the Kurdistan Region, including poor quality food, overcrowding, lack of medical assistance, lack of clean drinking water, and extensive use of solitary confinement.¹⁹ It is hoped that the reform programme currently being implemented by the MoJ will address all of these issues.

UNAMI notes that the MoJ has expanded education and vocational training opportunities for inmates in a number of prisons. Most prisons have sewing and computer workshops, although with limited equipment, in addition to literacy classes and basic education courses. However, libraries were often poorly stocked and contained mostly religious literature. Basra's Central Prison has become the first pilot project in Iraq offering a UNICEF-supported accelerated learning programme for juvenile inmates.

UNAMI received reports of the deaths of a number of prisoners and detainees during the reporting period. On 19 July, Prime Minister Nuri al-Maliki ordered the MoI to establish an investigative committee into the circumstances of the death of a detainee, Saddam Mekhlif, who had been convicted under Article 4 of the Anti-Terrorism Law, and whose body was found near al-Adala prison in Kadhimiya district in northern Baghdad. The MoI noted in its press statement that the Prime Minister had ordered that any officer found to have been legally responsible for the death of the prisoner be prosecuted, and that the findings of the committee of inquiry be made public as a means of ensuring that human rights are respected. Previously, on 15 July, the Speaker of the Council of Representatives, Ossama al-Nujayfi, had decided to establish a sub-committee of the Parliamentary Human Rights Committee to investigate the death of this detainee.

On 21 November, a report of the Human Rights Committee of the Council of Representatives disclosed that at least 34 detainees had died between July and September in prisons under the authority of the Prison Reform Directorate of the MoJ. The autopsy reports compiled by the Institute of Forensic Medicine on the bodies of the deceased detainees stated that the causes of death were all natural and related to disease, including hydro-encephalitis, heart disease, pulmonary disease and meningitis. The coroner found that none of the deceased had indications of bruising, fractures or other signs of violence. The Chair of the Human Rights Committee, Dr Selim Al-Jbouri, expressed his concern at the number of deaths of detainees, whose ages ranged between 30 and 40. He also questioned whether the Institute of Forensic Medicine was concealing the real causes of the deaths for political reasons. In light of the heightened responsibilities of States for persons within their custody and the presumption of State responsibility when an individual dies in State custody, UNAMI referred the cases to the MoHR, which stated that it was only aware of the deaths of ten detainees, but that it would conduct an investigation into all the deaths and follow up with the Institute of Forensic Medicine.²⁰ UNAMI also raised the matter with the MoJ and the results of the investigation remain pending.

¹⁷ The MoHR in its reports has frequently highlighted overcrowding in Iraq's detention facilities and prisons as a major challenge facing the administration of justice in Iraq. In a letter to UNAMI, the MoHR stated that "overcrowding, along with poor physical conditions, represents the cause of many problems related to the psychological and physical health of detainees because of the inability of the facilities and premises of the prison to provide the various needs of the detainees."

¹⁸ According to the MoHR, due to overcrowding the MoJ is often not in a position to accept detainees held in MoI, MoD and Counter-Terrorism facilities once the investigation phase has been completed. UNAMI does not have access to detention facilities run by the MoI or the Counter-Terrorism Directorate, whose physical standards remain poor according to MoHR.

¹⁹ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that its monitoring of prisons had confirmed that these issues remain problematic in some detention centres, particularly those Federal Prisons in the Kurdistan Region (Chamchamal and Susa Prisons).

²⁰ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated the General Commander of the Armed Forces had conducted an investigation into these deaths – and that this investigation had found that in a number of cases the deaths had been due to natural causes or sickness, but that there had been a number of cases which had been referred to prosecutors to investigate the alleged involvement of officers and staff members.

Security of some prisons remained problematic. UNAMI received several reports of prisoner escapes or attempted escapes from a number of detention facilities. For instance, there was a mass outbreak of prisoners from the *Tasfiraat* detention centre in Tikrit in Salahiddin following a riot on 27 September. The MoI later confirmed that 16 prison guards and four prisoners were killed, and that 102 prisoners managed to escape, including 47 members of Al-Qaeda who had been sentenced to death. After taking over a large part of the prison, the rioters used other inmates as human shields in order to escape. In a statement released on 28 September, the MoI said it had clear evidence of collusion between some prison guards and inmates in the facility – including that weapons were smuggled in to inmates during family visits, that locks on some doors were deliberately left open, and that no searches of cells had been conducted for a long period. Immediately after the breakout, authorities imposed a curfew in the city in an attempt to recapture the escapees. By 31 December, some 32 prisoners had been recaptured in various parts of the country.

3.4 Allegations of ill-treatment

While there is a strong legal framework in Iraq prohibiting the use of torture,²¹ UNAMI continues to receive a large number of credible reports that mistreatment, abuse and at times torture of detainees is widespread.²² Allegations received by UNAMI relate to abuse that takes place at the time of arrest and during the investigation phase. Nearly all allegations concern MoI detention facilities and those run by the CTD. As noted above, the Criminal Procedure Code permits persons suspected of involvement in capital offences, which includes many offences under the Anti-Terrorism Law, to be held for up to six monthly renewable periods without charge or trial while investigations are on-going. It appears that many persons arrested on suspicion of involvement in terrorist activities under the Anti-Terrorism Law are held in detention facilities run by the MoI until confessions are obtained or conviction by a court. As noted above, courts frequently rely solely on confessions to found convictions – often without any corroborating evidence. These factors contribute to an environment where violations, including abuse, torture and corruption can, and do, take place.

Former detainees and family members often state to UNAMI that they are fearful of raising their claims publicly or through official government channels from fear of retribution against themselves or family members from elements of the security forces.

Nearly all detainees and prisoners held in MoJ facilities interviewed by UNAMI alleged they had suffered abuse and mistreatment, and on occasions torture, while held during investigation in MoI-run facilities prior to their transfer to the MoJ. Many claimed they were held incommunicado, without access to family members or lawyers, and that they were subjected to interrogations that included beatings, electric shocks to various parts of the body, suspension from the ceiling by the arms, sometimes for hours or for several days at a time, and other forms of sexual and physical abuse.²³ Many detainees recounted how their interrogators threatened to sexually or physically abuse their family members if they did not confess. Many detainees and prisoners, and those subsequently released, who were interviewed by UNAMI, bore scars and physical marks on their bodies that appeared consonant with their claims to have suffered from physical mistreatment in the past. Nearly all individuals spoken to by UNAMI alleged that the abuse and torture had been carried out for the purposes of extracting confessions relating to real or imagined crimes, often terrorist-related. Many claimed that they were forced to sign blank documents that were later filled in by interrogators. A number

²¹ Article 37 of the Iraqi Constitution prohibits any form of coercion or torture. Section 12 of the Coalition Provisional Authority (CPA) Memorandum Number 2 (2003) prohibits the use of restraints, such as handcuffs, irons and strait jackets as punishment. Article 127 of the Criminal Procedure Code prohibits the use of any illegal method to influence the accused to extract a confession. Mistreatment, threats, injury, enticement, promises, psychological influence or use of drugs or intoxicants are considered illegal. Furthermore, Article 333 criminalises any public official who tortures or orders or threatens torture of a person accused of a criminal act with the aim of compelling a confession.

²² In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that it undertakes monitoring of all Iraq's places of detention and prisons and monitors all the complaints of prisoners and detainees, including denial of access to lawyers and family members, allegations of mistreatment and torture, etc. The MoHR states that it forwards the substance of complaints to judicial prosecutors for review and formal investigation.

²³ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that its monitoring found that there were some MoI run detention facilities that hindered or prevented lawyers to attend pretrial investigations or to access detainees. It further states that the MoI has acted to ensure that individuals discharged by the courts are released within 30 days of the court's verdict by determining whether there are any outstanding charges within this time-frame.

claimed that the abuse took place in the presence of prosecutors and investigative judges. Once a confession was made, nearly all the detainees said the abuse stopped and they were transferred to the MoJ facilities.

UNAMI followed the fate of approximately 42 persons arrested in January 2012 in a security sweep conducted in a southern area of Baghdad by Iraqi military forces following an IED attack in the area. Many of these men were held up to 12 months, although, as far as UNAMI can ascertain, at least one still remained in detention at the end of December 2012. Subsequent to their release, a number of them were interviewed by UNAMI. All claimed to have been beaten severely and to have been subjected to other forms of torture during interrogation while they were detained in the MoI facility. The men commonly alleged that they had been repeatedly beaten on various parts of their bodies during interrogation. One man stated that his hands had been tied behind his back and he had then been suspended from a ceiling for three days, resulting in the dislocation of his shoulders, for which he was now receiving medical treatment. Others claimed that their interrogators had threatened their family members with physical and sexual violence if they did not confess to criminal acts. A number of the men said that interrogators or detention centre authorities had told them or their family members that their release would be secured if certain sums of money were paid or certain lawyers were approached and their fees paid. At times these 'fees' had amounted to USD100,000 or more. Many of the men stated that they had been forced to confess to imaginary crimes involving terrorism, including planting IEDs and killing individuals who had not, in fact, been the object of attack and who were still alive. Many were then convicted by the CCCI based solely on these confessions, despite the fact that a number alleged before the Court that their confessions had been made under coercion. It was only as a result of the intervention by lawyers during later court proceedings or during the appeals process that many of the men were released, owing to the fact that the confessions were found to be patently false.

As noted in previous reports, contributing to the problem is the fact that the legal responsibility for arrest and detention is split between different ministries and security forces, clouding accountability and limiting effective government oversight. In meetings with UNAMI, senior government officials have acknowledged that mistreatment may occur in detention facilities run by the MoI. Iraq also suffers from a 'culture of abuse', with little public sympathy for persons accused of criminal acts and a long history of impunity for those who perpetrate abuse. A major contributing factor is the strong dependence of judicial procedures on confessions from suspects, despite the fact that the law prohibits the admittance of confessions obtained through coercion as evidence in trials.²⁴

Regardless of the underlying causes, UNAMI calls on the GoI to take urgent steps to ensure respect of its international and constitutional legal obligations and to bring an end to the torture and mistreatment of detainees. Of paramount importance, the GoI should consider amending the Anti-Terrorism Law and the Criminal Procedure Code to ensure that all persons who are detained, including those arrested in relation to terrorism charges, are only held by police for a maximum period of 24 hours before formal charge and transfer to MoJ-run facilities pending trial, and that a lawyer representing the accused is present during interrogation.

UNAMI is concerned about abuse and violence committed by prisoners against each other, although actions taken by the MoJ as part of its reform programme has had a positive effect. In November 2012, persons convicted to long prison sentences under the Anti-Terrorism Law were removed from provincial facilities and concentrated in four prisons (Baghdad Central Prison, Nassiriyah, Taji and Susa). According to prisoners' testimonies collected by UNAMI, this reorganization not only removed some of the most hardened criminals from certain prisons, but also ended the informal but significant influence wielded by powerful, politically well-connected extremists. In some prisons, administrators and guards had been reluctant or unable to challenge the *de facto* power wielded by some of these convicts, which had undermined prison discipline and security. The prisoner transfers have permitted a restoration of the authority of the prison authorities in many cases. Nevertheless, UNAMI received a number of allegations from prisoners (including juveniles) in at least one facility in southern Iraq that some prison guards had taken advantage of the departure of mafia-like structures to retaliate against those inmates who had previously enjoyed protection under these structures. Prisoners also alleged in some centres that living standards, mainly relating to quality of food and clothing, had declined since the reorganisation. Prison authorities responded directly to these allegations by noting that some prisoners, mostly juveniles, who had formerly received protection from hard-core elements among the prison population, did not like the re-imposition of authority

²⁴ Article 418, Criminal Procedure Code.

that had followed the transfers. In this regard, UNAMI notes that young adults transferred from an adult to a juvenile wing of the prison acknowledged that abuse, which had been frequent in the former, immediately stopped in the latter.

UNAMI continues to work with the GoI to address the problems faced by the Iraqi criminal justice system, in particular the conditions in detention centres and prisons. In addition to the programme of the MoJ to close prisons not meeting basic standards for health and hygiene, and plans to revamp training of detention facility staff, the MoHR has been active in monitoring prisons and places of detention. During the second half of 2012, inspection teams from the MoHR conducted 129 visits to prisons and detention centers in all Governorates to monitor and report on the humanitarian, health and legal conditions of the prisoners, and to document alleged violations. According to the MoHR, most cases alleging ill-treatment and torture took place during the investigation and pre-trial phase of proceedings and concerned facilities under the authority of the MoI and MoD. The MoHR has assured UNAMI that it actively follows up on all allegations of ill-treatment and torture and liaises with all relevant authorities to ensure that victims are protected and perpetrators held accountable according to law.

3.5 Fair trial standards

UNAMI monitored trials conducted in various parts of Iraq during the second half of 2012. UNAMI remains concerned at the common practice of relying on confessions to found convictions, which were often obtained before the accused was brought to court and which are frequently claimed to have been made under duress. In many cases, there was no other corroborating forensic evidence or independent witness testimony before the court on which the decision of the court was based. Despite Iraqi law requiring confessions to be corroborated by other evidence, or rejected where allegations of coercion are raised and substantiated, the courts rarely abided by these provisions. In some instances, persons were convicted on capital charges and sentenced to death based solely on a confession— even where it was alleged by the accused that the confession had been obtained through duress.²⁵ In this regard, it is important to recall the State's obligations under Article 14, ICCPR, including the obligation to ensure that persons charged with a criminal offence are not compelled to testify against themselves or to confess guilt.

UNAMI observed that lack of resources for prosecutors and courts remain problematic and contribute to lengthy delays before and during trials. Lack of use of bail provisions and delays in completing investigations or conducting trials contributed greatly to overcrowding in prisons and lengthy periods of detention of individuals without conviction.²⁶ Some detainees interviewed by UNAMI stated that they had been held up to four years or more while awaiting trial. Detainees routinely claim to wait weeks or months between court appearances, many of which do not seem to advance the case towards closure. This raises concerns that Iraq is not respecting its obligations to ensure a trial without undue delay as provided for by article 14(3)(c) of ICCPR.

As already noted, many detainees spoken to by UNAMI stated that they were unable to afford lawyers, while many court-appointed legal counsels were passive and unhelpful.²⁷ The apparent lack of motivation was often explained by claims that government-set fees were wholly inadequate. Many detainees said that the only opportunity they had to meet with their court-appointed legal counsel was on the day of the trial.

A number of judges spoken to confidentially by UNAMI asserted that they felt under political, social or other forms of pressure to convict persons charged with capital and terrorist offences, which raises questions

²⁵ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that article 213(c) of the Iraqi Criminal Procedure Code is problematic in that where allegations of torture are made before the court the court may still proceed with the case and convict a suspect based on a confession after medical evidence has been submitted by a court appointed doctor.

²⁶ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that judges refrain from granting bail because of social pressures not to be seen to be lenient on perpetrators of crimes. Also some judges are motivated by the intention to protect accused persons from the possibility of violent attacks by relatives of victims. Additionally, accused persons who have committed crimes in Governorates other than where they live may not return to the Governorate to face trial if released on bail.

²⁷ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that it had received a number of complaints from detainees and prisoners that court appointed attorneys failed to maintain professional standards in the conduct of their defence. The MoHR said it has referred a number of cases to the Iraqi Bar Association, but has not received an official response on these complaints.

concerning compliance with State obligations under Article 14 ICCPR to ensure a fair hearing by a competent, independent, and impartial tribunal.

3.5.1 *Al-Hashemi trials*

UNAMI continued to monitor the trials *in absentia* of Vice President Tarek Al-Hashemi, who was charged with over 300 counts under the anti-terrorism legislation. The main trial before the CCCI in Baghdad concerned three charges brought under Article 4 of the Anti-Terrorism Law against Al-Hashemi himself and his son in law, Ahmed Qahtan relating to the killing of Brigadier General Talib Balasim and his wife, the murder of a lawyer, Suhaad Najeh, and the murder of an official of the Directorate of National Security, Ibraheem Salih Mahdi, and his wife. The trial commenced on 15 May and continued over seven sessions. At the final session, held in September, the judges convicted Al-Hashemi and Qahtan in relation to the first two murder charges, but acquitted the co-accused in relation to the third murder charge. The President of the Court then sentenced the co-accused to death in relation to each of the charges for which they had been convicted. The Court noted that the decision was not final as the verdict could be appealed within 30 days.

On 1 November, the CCCI issued a third death sentence against Al-Hashemi and Qahtan, in relation to charges brought under Article 4 of the Anti-Terrorism Law concerning an under-vehicle IED (UVIED) planted under the car of an officer of the MoI. Al-Hashemi's lawyer told UNAMI that he knew nothing about this case and that he had not attended any of the sessions. He stated that the verdict would be appealed based on the ground that the court had violated its rules of procedures by denying the accused to present a defence in relation to the case.

On 4 November, the CCCI issued a fourth death sentence against Al-Hashemi and Qahtan, again under Article 4 of the Anti-Terrorism Law, in relation to the “Al Mada’in case”, in which Al Hashemi's bodyguards were accused of preparing a VBIED intended to target Shi’a pilgrims during *Ashura* in December 2011. The general prosecutor relied on the confession made by one of Al-Hashemi's private bodyguards that he and two other bodyguards had planned the attack and prepared the car bomb in order to target Shi’a pilgrims. The car bomb was allegedly found in the possession of another of Al-Hashemi's bodyguards, who then allegedly confessed that he had received orders to prepare the car bomb from Qahtan, who in turn had received the orders from Al-Hashemi. In reaching the verdict, the President of the panel of judges said that the court had relied on witness statements of members of the security forces that had searched the house of Al-Hashemi's bodyguards where the car bomb had allegedly been found, in addition to the confessions of the bodyguards. In a written statement issued on 4 November, the defence lawyers claimed that during the court session held on 4 October, three of the prosecution's seven witnesses had recanted their initial statements made to investigators, claiming that these statements had been made under duress and inducements, such as a promise that they would be released if they ‘confessed’ and implicated Al-Hashemi and his son-in-law in the alleged crime. The defence lawyers also alleged that since recanting their evidence, the three witnesses had been subjected to torture and mistreatment and were being held in a MoI detention facility in inhumane conditions. UNAMI is not able to verify these allegations.

UNAMI does not comment on the guilt or innocence of accused persons. However, UNAMI has some reservations with regards to the conduct of these trials. While trials *in absentia* in exceptional circumstances are in accordance with international norms, safeguards must be put in place to ensure the rights of accused persons are respected. This includes the defendant's right to be represented by a person of his or her choosing. Both Mr Al-Hashemi and Mr Qahtan were represented by their own lawyers during the proceedings; however, Mr Qahtan's lawyer failed to attend court for the second or third sessions of the trial relating to the first and second death sentences. Although the court then appointed a lawyer to represent him, this lawyer failed to participate in the cross-examination of the prosecution witnesses and did not participate actively in the trial proceedings. Defence lawyers have also told UNAMI that they faced difficulties in getting access to the files from the investigation phase of the case, thus prejudicing the preparation of the defence case.

UNAMI notes that the prosecution has relied largely on witnesses who themselves are detained and under investigation for alleged involvement in crimes linked to those for which Mr Al-Hashemi and Mr Qahtan stand accused. The interrogation of witnesses under such circumstances without the presence of legal counsel casts doubt on the quality of the testimony and the legality of the process.

UNAMI has interviewed two families of witnesses in the case, who alleged they had received threats from government officials and, as a result, have been forced into hiding. Both families said they had not been able to access their family members in prison. One family member told UNAMI that she had to pay a bribe to

prison officials for each phone call made by her husband. One woman said her husband had suffered while in detention and that he fears he will be killed if he tells the truth. A second family member alleged that the accused had given statements to the investigation team only after being subjected to torture. Mr Al-Hashemi also alleged that people being held in relation to the case had been detained in secret prisons and subjected to torture.²⁸

UNAMI notes that all verdicts are subject to appeal and that, should Mr Al-Hashemi return to Iraq, Iraqi law requires that new trials be held in relation to the charges for which he has been convicted *in absentia*. UNAMI continues to monitor the proceedings.

3.6 Detainees and missing persons in Kirkuk

UNAMI continues to facilitate coordination between the ‘Kirkuk Detainee and Missing Persons Committee’ and the Kurdish Asayish security forces, concerning allegations, which have not been verified by UNAMI, that some 241 missing persons are being held in detention by the latter.

The Committee referred two cases of missing persons it alleged may have been detained by the Asayish: one concerned three brothers alleged to have been arrested in January 2010; and the other two men alleged to have been arrested in 2008. In addition, on 5 September, a woman raised with UNAMI the case of her son, who she said had been arrested by the US Army in 2007, and who, she was told in 2008, had been seen in the General Directorate of Asayish in Sulaimaniya. On 18 September a man claimed that his son, an ethnic Arab aged 29, had been arrested during a joint operation by the Iraqi Army and the US Army in Kirkuk in 2008, but had been seen six months later by an ex-prisoner in a detention facility in the Kurdistan Region.

The Kurdish Asayish continues to deny holding any detainees in the Kurdistan Region and indicated their willingness to facilitate visits to any prisons under their jurisdiction. The negotiations are still in process.

3.7 Detention and the rule of law in the Kurdistan Region

In the Kurdistan Region, UNAMI continued its regular visits to detention facilities and prisons, working in close cooperation with the KRG. UNAMI remains concerned over the conditions in some pre-trial detention facilities and prisons, in particular over-crowding and poor sanitary conditions, but notes that new, improved facilities have been, or are being, constructed. UNAMI also remains concerned over prolonged periods of pre-trial detention, but appreciates the efforts of the KRG to reduce undue delays.

The total number of detainees, security detainees and convicted prisoners held by the KRG stood at 2,812 by the end of December 2012. Of these, 1,428 were pre-trial detainees, including 227 women and 383 juveniles. A total of 1,384 were convicted prisoners, including 227 women and 504 juveniles.

UNAMI carried out 38 visits to detention facilities and prisons and conducted 232 interviews with detainees and prisoners in the Kurdistan Region during the reporting period. UNAMI observed some improvements in the physical conditions of detention through the construction and opening of a new, larger pre-trial detention facility in Soran. Construction of a new detention facility for the Asayish Gishty in Erbil has commenced and is expected to be completed by June 2013. The new facility is expected to have a capacity of 400 detainees compared to 100 detainees in the existing facility. Conditions in the old facilities remain overall sub-standard, primarily due to overcrowding and poor standards of hygiene and food.

UNAMI remains concerned over significant delays in bringing accused persons to trial, with many persons held in pre-trial detention beyond the statutory limits and few detainees granted bail. Many detainees reported that they had no access to lawyers and had not been informed of the charges against them. UNAMI worked with authorities to clarify specific charges and noted with concern a tendency of authorities to justify the detention of a small number of detainees by referring to them as constituting an overall ‘danger to society’ rather than identifying a formal charge. Some detainees stated that they had not been permitted family contacts.

UNAMI interviewed one detainee in Asayish Gishty detention facility in Erbil, still on remand, who has been detained without trial for six years. Nevertheless, some improvements in reducing pre-trial detention periods at the Asayish Gishty detention centres were noted. UNAMI focused its dialogue with authorities by compiling a list of 25 detainees who had been detained for more than two years, and advocated with the

²⁸ Al Arabiya, “Fugitive Iraq VP says his employees jailed in secret prisons”, 20 February 2012. Available online: <http://english.alarabiya.net/articles/2012/02/20/195912.html>

Asayish and the Judicial Council to review the delays in processing these cases. As a result, in November, the Judicial Council formally requested the Investigation Court to transfer 12 of the 25 cases to the Criminal Court for hearing.

UNAMI has engaged in dialogue with the KRG on cases of alleged abuse and mistreatment of prisoners. The authorities are engaging constructively to seek improvements, including legal and institutional reform and capacity-building of relevant staff. However, concrete improvements in this area remain to be seen and dialogue on a small number of specific cases continues.

UNAMI monitored 12 trials in the Kurdistan Region during the reporting period. The main overall concern remains the limited cooperation between Criminal Courts, Asayish and police, resulting in repeated delays in processing cases, primarily due to a lack of responses to requests for information, and miscommunication on court appearances. It was also observed that judges are frequently reassigned to new locations after short periods of service and that new judges lack sufficient legal experience, resulting in further delays and errors. UNAMI received reports of lawyers taking advantage of particularly vulnerable detainees, such as Arabs and migrant workers in Mahatta Prison in Erbil City, by collecting fees without providing corresponding services. Courts and prosecutors did not always provide information in a language understood by the parties, many interpreters are not trained in legal procedure and terminology, and standard forms are often not available in Arabic. The KRG has stated that it is working to address these issues.

UNAMI further observed a continued need for reform of police services, in particular ensuring regional diversity amongst police officers to reduce conflicts of interest, the procurement of improved vehicles used to transport suspects, detainees and prisoners, which are currently in the form of cages, as well as providing computer systems to courts and police stations to enhance the effectiveness of the administration of justice. The Office of the General Prosecutor also needs to strengthen its capacity as out-dated legislation is often still applied.

4. Death Penalty

UNAMI continues to have serious reservations about the integrity of the criminal justice system in Iraq, including with regard to abuses of due process, convictions based on forced confessions, a weak judiciary, corruption, and trial proceedings that fall short of international standards. No legal system can be guaranteed to be free of error, and in Iraq few convictions for serious offenses can be considered safe. Any miscarriage of justice as a result of capital punishment cannot be undone.

Iraq retains the death penalty for a large number of crimes. During the last six months of the year, Iraq executed 59 persons, including three females and four foreign nationals. The total number of persons executed in Iraq in 2012 was 123, including 5 females. The figure is sharply higher than in previous years: in 2011, 67 executions were carried out; and 18 in 2010.

On 27 August, the MoJ announced the execution of 21 persons, including three women. The Ministry's spokesman stated that all had been convicted under the Anti-Terrorism Law. On 29 August, the Ministry confirmed the execution of another five persons, two of whom were foreign nationals from Syria and Saudi Arabia. No details were provided except that all had been convicted under the Anti-Terrorism Law. On 4 October, the Ministry announced the execution of a further six men who had been convicted under Article 4 of the Anti-Terrorism Law. The Iraqi Reform Directorate of the MoJ further stated that among those executed was a man convicted in relation to a VBIED that had targeted the Ministry of Foreign Affairs in 2009, and another who was among the escapees from the Tikrit *Tasferaat* detention center and had recently been recaptured by Iraqi security forces. On 7 October, the Ministry announced the execution of another 11 prisoners, all of whom had been convicted under Article 4 of the Anti-Terrorism Law. Among those executed was one Algerian national. On 11 November, the MoJ confirmed the execution of ten prisoners, including one Egyptian national. All those executed had been convicted under Articles 2 and 4 of the Anti-Terrorism Law. The MoJ informed UNAMI that the executions had been carried out only after finalization of all appeals and confirmation of the death sentences by the Presidency Council.

According to the Ministry of Human Rights, the total number of death sentences approved by the Presidency Council for the entire year of 2012 was 241, while 77 death sentences are still pending at year's end, subject to approval by the Presidency Council.

The GoI maintains that it only executes individuals who have committed terrorist acts or other serious crimes against civilians.²⁹ However, concern regarding Iraq's compliance with its international human rights obligations in relation to the imposition of the death penalty was expressed by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, who, in July and August 2012, strongly condemned the execution of 21 individuals. The Special Rapporteur emphasized the need for transparency, stringent respect of due process and fair trial guarantees, noting that "any death sentence undertaken in contravention of a Government's international obligations is tantamount to an arbitrary execution". He called on the GoI to halt executions and review all death row cases, and to "disclose information on the number of executions carried out, the identity of death row prisoners, the charges and judicial proceedings brought against them, and the outcome of the review of their cases", noting that "secrecy over executions undermines public scrutiny and may lead the international community to conclude that these are being imposed in violation of international law". (Press releases of 27 July and 30 August 2012)

UNAMI continues to advocate with the GoI for the establishment of a moratorium on all executions with a view to the abolition of the death penalty in accordance with UN General Assembly Resolutions 62/149 (2007), 63/168 (2009), 65/205 (2010) and 67/176 (2012).³⁰

4.1 Death Penalty in the KRG

The Kurdistan Region continues to practice an unofficial moratorium on the death penalty and no executions took place during the last six months of 2012.

5. Mass Graves

Estimates about the number of missing persons in Iraq ranges from 250,000 to over one million, according to different public sources, including persons missing as a consequence of human rights violations and other atrocities committed during the regime of Saddam Hussein and years of armed conflict.³¹ According to the MoHR, the number of persons recorded as missing between 2003 and 2010 totals 137,520.

During the second half of 2012, mass graves were discovered in Baghdad, Missan, Najaf and Wasit, and the total number of individuals recovered from these graves was 106.

The MoHR, along with the medico-legal institute, continued its work conducting field missions to the sites of mass graves for examination, exhumation, classification and reporting purposes. The Ministry conducted 11 such visits to examine suspected mass graves sites in all Governorates.

In relation to missing persons, the MoHR also liaised with the International Committee of the Red Cross (ICRC) and relevant Ministries in following up cases of missing persons. The Ministry attended four technical meetings and undertook three fact-finding missions on the subject of missing persons.

6. Rights of Women

UNAMI remains concerned about respect for the rights and the status of women in Iraq, in particular in regard to so-called 'honour' crimes, trafficking and domestic violence.³² Women also continue to suffer from unequal access to educational and economic opportunities, and face discrimination in the social, economic

²⁹ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that the Government of Iraq is required to protect the right to life and security of persons, but that Iraq has been subject to a serious security threat and acts of terrorism that threatens the existence of the State and threatens all Iraq's people. It stated that the reasons justifying implementation of the death penalty against those who have perpetrated serious crimes, including acts of terrorism, are clearly set out in its annual report on human rights for 2012, available on its website <www.humanrights.gov.iq/>.

³⁰ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that it has established a Committee to study all penal legislation with a view to reduce the crimes punishable with death and to restrict availability of the penalty to only the most severe and serious of crimes.

³¹ International Commission on Missing Persons. Available online <<http://www.ic-mp.org/icmp-worldwide/middle-east/iraq/>> accessed 31 June 2011.

³² According to the MoHR, UNAMI's concerns are not fairly expressed as the report does not recognize the considerable efforts that the GoI and civil society have undertaken to improve respect for the rights of women and their inclusion of all aspects of Iraqi society.

and political spheres, despite some Government efforts to address these problems.³³ High rates of domestic and other forms of violence continue to be of concern although accurate statistics cannot be obtained, given the conservative nature of Iraqi society and the unwillingness or inability of victims or family members to report incidents to the police or other authorities.

Due to access restrictions as a result of the security situation in parts of Iraq, UNAMI is not able to collect first-hand data on the situation of women in many areas, with the notable exception of the south of Iraq, Kirkuk and the Kurdistan Region. Much of the information presented in this section thus concerns the situation of women in these areas; although UNAMI believes that many of these issues are common across Iraq.³⁴

During a visit to Kirkuk Court on 4 July, UNAMI observed a number of cases involving allegations of domestic violence made by women against their husbands. According to investigating magistrates, and although precise statistics are not available, there appears to be a high incidence of cases of domestic violence in Kirkuk, with a significant rise in numbers since 2011. Although a Family Police Unit (FPU) specialising in cases of domestic violence against women and children was opened in Kirkuk, the unit has limited capacity owing to a lack of suitably qualified staff and inadequate space. The Unit currently has no female staff. The FPU is located on the second floor of a regular police station, which discourages women from entering it. During the reporting period, only a few cases had been referred to the FPU, all of them through women's rights organizations.

In southern Iraq, the deeply conservative nature of society contributes to discrimination and a very difficult situation for women in general. Thousands are doubly or triply disadvantaged, for example war widows, who may not only miss out on social security benefits due to bureaucratic inefficiency, but are also forced to continue living with relatives or in-laws in their matrimonial homes in an often uncomfortable and violent environment. Even among married couples, the current socio-economic hardship has led to a rise in marital stress and domestic violence. Basra's FPU, set up in late 2011 with UNDP support, continued with very limited resources to address cases of domestic violence and spousal abuse. From July to December 2012, the FPU opened 311 cases of verbal abuse, sexual violence or forced marriage. Most were settled through formal mediation and reconciliation processes, without reaching court. No killings, suicides or serious injuries were reported to the FPU. Suicides, burnings and self-immolations were also absent from the statistics, although several instances have been documented by UNAMI.

The FPU in Basra is currently housed in premises that are overcrowded and not easily accessible to female victims of domestic violence, since, as in Kirkuk, they are located on the top-floor of an existing police station. The FPU also needs to expand the number and functions of female staff, who currently number six and are tasked exclusively with secretarial duties and the frisking of female visitors. UNAMI shares the concern of the FPU that there is still no shelter available in Basra to accommodate women who cannot return to their previous residence.

There were a number of cases of kidnapping of women and girls reported in Kirkuk and Salahaddin governorates, some of which involved allegations that women and girls had been targeted by police officers and members of the security forces involved in trafficking and sexual slavery rackets.³⁵ These allegations were made to UNAMI in relation to a number of cases by a range of reliable sources, including individual Iraqi citizens, civil society organisations and government officials speaking anonymously, out of fear of possible retaliation if their allegations were to be made public. UNAMI is not able to verify these allegations. However, UNAMI calls on the GoI to do all it can to fully investigate such claims, to protect women who may be the victims of such abuse, and to hold any perpetrators accountable according to law.

³³ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that it disagrees with UNAMI HRO's assessment of the status of respect and protection of women's rights in Iraq. It stated that UNAMI's assessment did not reflect reality and that the issues raised are not endemic in Iraqi society. It further stated that there are no reliable statistics on the prevalence of domestic violence in Iraq, and that UNAMI's assessment is exaggerated or not based on solid facts.

³⁴ According to MoHR, it actively investigates and reports on issues concerning respect for women's rights in all areas of Iraq, however UNAMI is unable to independently verify the issues raised in those reports. The MoHR asserts that there are very few reported cases concerning honour crimes in Iraq outside of the Kurdistan Region

³⁵ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that it followed up on these allegations with its office in Salahiddin, and that its office had reported that there was no substance to these allegations.

Women continue to face problems accessing justice in Iraq, particularly with regard to securing legal representation or lawyers in court proceedings. The few legal clinics offering advice to women are run by NGOs and are limited in number.

The situation of widows and orphans in Iraq is of particular concern. Decades of dictatorship, war and other conflicts have left thousands of widows and orphans across Iraq.³⁶ Widows are often the sole providers for their children and dependents, and given the difficult economic situation in the country coupled with conservative attitudes and discrimination against women in economic and social spheres, single female-headed households often are in need of basic social and economic assistance. They are particularly vulnerable to exploitation in terms of prostitution and trafficking by armed groups.

The MoHR conducted 52 field visits to women's organizations, girls' schools, suburban areas and districts, and ministries and governmental institutions, to monitor issues affecting the enjoyment by women of their civil, political and economic rights. Additional measures are needed to address these issues. At the legislative level, the GoI needs to repeal sections of the Criminal Code that prescribe 'honour' as a mitigating circumstance in relation to violence committed against women. UNAMI notes that the draft family protection law was still before the Council of Representatives at the end of the year.

6.1 Rights of Women in the Kurdistan Region

During the reporting period, the KRG made progress in institutional and policy reform as well as implementation of key provisions of the Domestic Violence Law (Act no. 8 of 2011). The rate of reporting of violence against women remained high owing to the growing confidence among women to speak out about domestic violence and improved awareness that they can report violence perpetrated against them by family members and seek protection and other forms of support or assistance from the Government. The KRG informed UNAMI that it had received 2,469 cases of violence against women between July and December 2012. The highest numbers were reported in Sulaimaniya (1019 cases), followed by Erbil (807 cases) and Dahuk (431 cases). There were 237 cases of physical abuse of women, 87 cases of sexual abuse, and 153 cases of women who had burned themselves or were reported as accidentally burnt. Some 50 cases included a woman's death. A case that sparked significant public discussion on violence against women was that of a girl who was repeatedly raped by her brother and became pregnant. Following threats by her family, she took refuge in a women's shelter. After giving birth, the family of the girl signed an agreement with the authorities, committing to protecting her life and safety, although the agreement was not submitted to the Court for approval as required by the procedures. One month after returning to her family, the girl was killed by another brother. The tragic case and subsequent public discussion led to steps by the KRG to speed up institutional and policy reform towards the end of 2012.

The National Strategy to Confront Violence against Women in Kurdistan (2012-2016) was approved on 19 September. The strategy establishes a uniform analysis and approach to combating violence against women in all forms and provides a plan of action for legal reform, awareness-raising for professionals and communities, including through the media and in schools, protection of survivors of violence, and the provision of medical, social and physiological services.

In August, the KRG Council of Ministers established a Women's Rights Monitoring Board, a new monitoring and coordination body to protect the human rights of women. The Board is chaired by the Prime Minister and includes representatives from the High Council of Women Affairs, the Public Prosecution Office, and the Ministries of Justice, Interior, Labour and Social Affairs, Health, Planning, Education, Higher Education and Religious Affairs.

The Directorate of Following up Violence against Women, under the MoI, was renamed the Directorate for Combating Violence against Women on 18 October. Following this change, the Directorate took over investigation of cases of domestic violence by forming specialized police units in all provinces, as mandated by Article 3 of the Domestic Violence Law (Act no. 8 of 2011). The Directorate aims to recruit women to 60 percent of new posts. Also in line with the Domestic Violence Law, two female Judges were appointed to specialise in domestic violence cases. A reconciliation committee mandated by the Domestic Violence Law

³⁶ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that requiring widows to live with their in-laws or their families is not a violation of their rights nor is it social discrimination, but is aimed at providing them with social and economic support and protection..

has been established in Dahuk, but at year's end such committees had yet to be established in Erbil, Sulaimaniya, and Garmiyān.

The situation of the women shelters in the Kurdistan Region remained largely unchanged during the reporting period. The draft shelter policy was amended once more and presented to the Council of Ministers for approval. In September, the shelter in Sulaimaniya administered by the KRG MoI was handed over to the Ministry of Labour and Social Affairs, so as to implement a decision to streamline the management of shelters under one ministry. A new shelter is being built in Sulaimaniya and is expected to be completed in February 2013, replacing two older shelters. The construction of a larger shelter is also in progress in Erbil.

In August, an international NGO (Wadi) established a free hotline in Sulaimaniya for victims of female genital mutilation (FGM) all over Iraq. Specialized professionals have been recruited to provide medical and social advice. The hotline received 374 calls in 2012. FGM was criminalized in 2011, but to date there are no known cases of prosecution in relation to FGM.

7. Rights of Ethnic and Religious Groups

While there have been some improvements in terms of security for Iraq's ethnic and religious groups, their situation remains precarious. During the second half of 2012, UNAMI continued to receive reports of attacks directed at persons on account of their ethnic or religious affiliations. UNAMI has particular concerns regarding the situation of the Turkmen community in the disputed areas, Christian families that migrated from Baghdad to Erbil following attacks against the community in 2010, and the rising tension between the Shabak and the Christian minorities in Ninewa. Figures collected by UNAMI indicate that members of minority groups are still leaving their homes in many areas on account of insecurity and acts of violence perpetrated against their communities, compounded by lack of access to basic services and poor economic opportunities.³⁷

For some minority groups the security situation improved somewhat during the last part of 2012. Reports of violence directed against Christians decreased throughout 2012. Except for the dispute with the Shabak minority in Nineveh during August and September 2012, there were only a few attacks against Christians recorded in the last part of the year. Exceptions included the kidnapping of a Christian man on 20 July from Kirkuk by unknown gunmen. On 25 July a Christian community leader was assassinated by unidentified gunmen at his home in the village of Khalo Baziyani in Kirkuk. On 16 September an IED targeted the Al-Qalb Al-Aqdas church and cathedral located near the Kirkuk Governorate Building in Kirkuk. The church was damaged, but there were no casualties.

Attacks against members of the Turkmen community increased, notably in Kirkuk and Salahiddin provinces.³⁸ UNAMI received several reports of attacks against Turkmen, including IEDs, VBIEDs, suicide bombs, kidnappings, and assassinations. A number of attacks against Turkmen were committed in Kirkuk and the districts and sub-districts between Kirkuk and Diyala governorates. On 2 July a Turkmen was assassinated after a bomb exploded that was targeting his shop. Also on 2 July, Turkmen neighbourhoods in Tuz were attacked with two VBEDs, leaving a number of casualties. In one of the most shocking incidents, on 11 August, eight Turkmen teenagers were executed by an armed group while they were swimming in a creek near Tuz district. The armed group deliberately separated the Turkmen from the other people swimming in the same place, and executed them while releasing the others unharmed. On 16 August, a suicide bomber entered a café in Talaffar near Mosul, where a group of Turkmen were enjoying a Ramadan evening gathering, and exploded his suicide belt, leaving seven Turkmen dead and up to 20 injured. On 21 August, a Turkmen taxi driver was killed in the highway between Tuz and Tikrit. On 6 October, a Turkmen mini-bus driver was killed near Diyala by a sticky bomb attached to his vehicle. On 9 October, an armed

³⁷ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that UNAMI had failed to note in this report the efforts that the Government of Iraq had gone to in order to protect the rights of minorities and in particular, to protect them from violence. This includes financial and other support to Christians who were displaced to the Kurdistan Region; the establishment of a governmental committee to examine the problems between the Shabak and Christian communities in Ninawa; and workshops conducted in the Yezidi community to address the problem of suicides among young people, etc.

³⁸ According to statistics presented by the Iraqi Turkmen Front on human rights violations against Turkmen in 2012 in a press conference held on 24 December, a total of 46 Turkmen were assassinated, 12 were kidnapped, 61 were killed in explosions, while 329 were injured in explosions.

group assassinated a Turkmen judge in Mosul. On 27 October, a Turkmen taxi driver was killed by an unknown group that broke into his house and shot and killed him, his wife and his son. During 2012, more than 15 Turkmen businessmen were kidnapped for ransom, and Turkmen families continued to report threats and other criminal assaults against them, especially in Kirkuk.

UNAMI continued to monitor the situation of Christian families that migrated from Baghdad to Erbil following the Al-Najat Church attack in 2010. A Christian member of the Kurdistan Region parliament and some other Christian representatives voiced their concerns about the uncertain future of many of those who left Baghdad. Approximately 2000 of those who left for the Kurdistan Region were public servants whose jobs were temporarily transferred to the Kurdistan Region from Baghdad. The GoI had requested that these public servants return to Baghdad; but following lengthy negotiations between the GoI, the KRG and representatives of the displaced persons, the GoI agreed to extend financial support to these families for an additional six months. UNAMI continues to work with the GoI, the KRG and Christian representatives to help find a permanent resolution to the issue.

UNAMI has concerns about the increasing tensions between Christians and Shabaks in Ninewa governorate that turned violent in September and October 2012. The tensions centre on disputes over land and property in Bartilla district in Ninewa. Representatives of each group accused the other of attempting to control the area, and of trying to change its demographic makeup. Shabak representatives also raised concerns about attacks perpetrated against them by extremist groups.

In relation to the Yezidi community, UNAMI remains concerned about suicide cases among Yezidi women and teenagers and continues to address this delicate issue with community leaders, the GoI and the KRG. UNAMI also monitored the cases of a number of Yezidi leaders who were detained in the KRG Asayish headquarters in Ninewa governorate. On 15 October, Khoudeida Ibrahim Fendi, the clan leader of the Al-Waskan tribe of Sumouqa in Huttin village (Dugorke), was arrested by the KRG's Asayish. He was detained in Sinjar, and released on 21 October after he had allegedly signed a commitment to reduce his relations with certain political parties opposed to Kurdish control of the area. In another incident, it was alleged by a Yezidi leader that he was only released after he has resigned from his political party.

No serious violence against minorities was reported in Basra. The number of Christians (currently 400 families) has decreased steadily, mostly from migration in order to seek employment and better living conditions. Emigration has already reduced the number of Baha'i families to a single-digit figure. UNAMI has received reports alleging that cronyism within the Provincial Council ensures that jobs are given only to individuals who are affiliated with power-holding political parties. This disadvantages minorities, which lack powerful political lobbies, and undermines the work of the MoLSA, which manages an employment database. Christian owners of liquor stores, who sought and successfully obtained a judicial reaffirmation of their operating licenses in early 2012, have not re-opened their shops, fearing non-implementation of the court order by the authorities and further harassment by vigilantes or security forces. Many Iraqis of African descent continue living in poverty and benefit little from the economic and social rights guaranteed by the GoI, often due to lack of education, voluntary isolation and insufficient awareness of their rights.³⁹

The GoI, through the MoHR, conducted a number of field studies in order to identify the particular issues faced by members of minorities in Iraq – including issues of discrimination, access to basic services, etc. The Ministry prepared a number of reports as a result of these field visits, and submitted the findings to local and central government authorities requesting that these issues be addressed. The Ministry, in coordination with the Ministry of Education and NGOs, is working to review the school curriculum to ensure appropriate education on minorities and their rights in Iraq, with a few to fostering tolerance and acceptance.

7.1 Rights of ethnic and religious groups in the Kurdistan Region

On 24 December, the Criminal Court in Dahuk sentenced five persons to two years imprisonment for their involvement in attacks on the Offices of the Kurdistan Islamic Union in Dahuk and Zakho in December 2011.

³⁹ Since drafting of this report was completed in January 2013, the leader of the Black Iraqi community, Jalal Thiyab, was assassinated on 21 April 2013.

The KRG informed UNAMI that it had paid compensation to the Christian and Yezidi owners of the liquor shops and hotels that had been burnt down in Zakho, although the shop owners told UNAMI that they were not satisfied with the amount of the compensation.

8. Attacks on other minority groups

While same sex activity between consenting adults is not unlawful in Iraq, UNAMI continues to document a high level of intolerance, discrimination and persecution directed against individuals for their real or perceived sexual orientation or gender identity. UNAMI received a number of reports alleging harassment, threats and acts of violence perpetrated against Iraqi citizens for these reasons, and a lack of protection offered by police and other government institutions. Many individuals claimed that they were afraid to report incidents of threats or violence based on sexual orientation or gender identity to the police or other authorities, fearing that their situation might become worse or that their sexual orientation might be disclosed publicly or to family members.

UNAMI calls on the GoI to continue its efforts to ensure the protection of all persons from acts of violence and discrimination, including persons at risk on the basis of their perceived or real sexual orientation or gender identity. In UNAMI's view, any failure or lack of will by the GoI to enforce the law and protect such persons from acts of violence constitutes a violation of Iraq's international human rights obligations.⁴⁰

9. Rights of Persons Living With Disabilities

On 23 January, the CoR passed a law ratifying the UN Convention on the Rights of Persons with Disabilities. NGOs working to promote the rights of persons living with disabilities in Iraq welcomed the news, and expressed their desire to work to ensure the law's application. However, the instrument of ratification was still to be formally lodged at year's end. On 23 February, the CoR approved in principle the establishment of a National Commission for People with Disabilities, which would serve as an independent commission to care for the needs of persons living with disabilities. However, the proposal met some opposition within the Government, which does not favour such a commission, but prefers to establish a committee under the jurisdiction of the MoLSA. A bill implementing the Convention was put before the parliament in May, but contains a number of deficiencies and had not been passed by the end of the reporting period.

Across Iraq, societal attitudes towards persons with disabilities remain negative. Such persons are often confined to domestic settings and viewed as objects of welfare or pity, rather than rights-holders. Persons with disabilities continue to suffer from discrimination in relation to healthcare, education, employment and economic opportunity. Iraq has a high proportion of persons disabled in the wars and violence that have characterised the country since the 1980s. Discrimination is reported, in particular, by persons disabled as a result of the Iran-Iraq war in the 1980s.⁴¹

UNAMI is concerned about the absence of specialised educational and health institutions for persons with mental illness.⁴²

Physical access by persons with disabilities to public and private buildings, and hence their access to Government services, remains limited. As noted in previous reports, the Council of Ministers has issued a decree ordering that access to all public buildings for persons with disabilities must be guaranteed, but implementation remains slow.

⁴⁰ In a positive move, the Government of Iraq established an inter-ministerial committee to consider ways to enhance the protection of members of the LGBT community in Iraq. However, the MoHR, in its comments on this report provided to UNAMI on 23 May 2013, noted that it found no evidence of attacks or killings of persons on the basis of their sexual orientation. UNAMI notes, however, the difficulty in establishing the motives behind many such attacks, given the fact that LGBT people do not tend to disclose their sexual orientation openly, that even their family members may not be aware of their orientation, that many LGBT people do not report attacks or threats to the police or authorities from fear, and the fact that there may be little evidence linking a crime to the victim's sexual orientation.

⁴¹ In a letter to UNAMI, the MoHR denied there was discrimination against such persons, indicating that services were available to persons with disabilities on a non-discriminatory basis, irrespective of how the disability was caused.

⁴² According to MoHR, there are specialized houses for persons with mental disabilities, called *Dar Alhanan*. In addition, the Al Rashad hospital specialises in mental health issues. The MoHR undertakes monitoring visits to these institutions on a regular basis.

In December, UNAMI in partnership with the Human Rights Committee of the Council of Representatives and the Iraqi Alliance of Disability Organisation (IADO), held a two day conference to discuss legal, policy and institutional reforms to ensure the appropriate and full implementation by the GoI of the Convention on the Rights of Persons with Disabilities, and to address societal and other barriers preventing persons with physical and intellectual disabilities from accessing basic services and participating fully in economic, social and political life. The conference was attended by representatives of the Government, the Council of Representatives, persons with disabilities and their representative organisations, and members of the international community. As a result of the conference, more than 50 recommendations were agreed by participants that will be presented formally to the GoI and the Speaker of the Council of Representatives in early 2013.⁴³

9.1 Rights of disabled persons in the Kurdistan Region

In the Kurdistan Region, concerns remain over inconsistent respect for the rights of persons with disabilities. The KRG commenced implementation of the Law on the Rights and Privileges of Persons with Disabilities and Those with Special Needs in the Kurdistan Region (Act No. 22 of 2011). Nevertheless, disabled people's organizations (DPOs) in the Kurdistan Region have expressed concern at the slow implementation of the law. In October, DPOs noted that various decisions and instructions issued by the KRG to give effect to the provisions of the law had not been enforced. The DPOs also raised numerous reservations about certain provisions of the law that they claim do not conform to international human rights standards, including the Convention on the Rights of Persons with Disabilities.

In November, a group of persons with disabilities began a 45-day hunger strike in Sulaimaniya, demanding increased financial benefits from the KRG and an end to discrimination against Persons with Disabilities in the Kurdistan Region. On 27 November, another group of Persons with Disabilities staged a demonstration in Erbil demanding an amendment to the law denying them access to driving licenses. In the Kurdistan Region, under the current Traffic Law (Act No. 86 of 2004), individuals who are deaf or hearing-impaired are not eligible to obtain a driving license.

In response to these concerns, KRG MoLSA agreed to request an amendment of the law concerning people with disabilities through the Council of Ministers and later the Kurdistan Region Parliament. KRG MoLSA also informed UNAMI that it had established committees to address specific aspects of the implementation of the law, such as a review of pension entitlements and the enforcement of the five percent quota allocated for disabled persons in public sector employment.

10. Rights of Children and Youth

Children in Iraq continue to suffer from armed conflict and violence. The Monitoring and Reporting Mechanism (MRM), responsible for tracking grave violations of children's rights in the context of armed conflict verified that 49 children - 37 boys and 12 girls - were killed and 141 were injured in various conflict-related incidents during the reporting period. For instance, on 24 October an eight year old girl was killed and two other students were wounded when an IED detonated in Ras Domiz area that was targeting Salahaddin Provincial Council member and Deputy of the Iraqi Turkmen Front, Mr. Oglu, who survived the attempted assassination. On 30 October an unidentified gunmen kidnapped a secondary school student in Shoraw quarter north of Kirkuk. On 2 November, a secondary school student was seriously wounded when he was shot by unknown gunmen while he was walking in the middle of Thuloyya sub-district south of Tikrit. On 9 November, police in Dakuk district in Kirkuk freed a 7 year-old child who had been kidnapped. On 26 December, a thirteen year-old female school student was kidnapped from her house in Al-Wasiti area in Kirkuk city by armed men.

UNAMI has concerns about the treatment of children subject to the criminal law system, particularly those facing charges connected with terrorism. According to the MRM, the number of children detained under the

⁴³ In its comments on this report provided to UNAMI 23 May 2013, the MoHR stated that it disagrees with UNAMI that there is widespread discrimination against persons with disabilities in Iraq. The MoHR also noted it had formally written to Ministries to allocate employment to persons with disabilities. The MoHR also disagreed with UNAMI's finding that many persons with disabilities cannot access adequate medical or health care; this is despite the fact that UNAMI has been directly informed of the problems of service provision to persons with disabilities by the Ministry of Health itself

Anti-Terrorism Law is 302, including 13 girls (almost 17 percent of the total number of children detained).⁴⁴ Of those, 40 children were provided with legal aid through a UNICEF sponsored programme. On 16 July, police in Kirkuk arrested two children who are brothers and detained them in the Juvenile Police Station. One of the children was less than nine years old and was kept with teenagers in one cell. Another case reported to UNAMI concerned a 16 year old arrested under Article 4 of the Anti-Terrorism Law in February 2012 for associating with an armed group. Despite being a minor he was held incommunicado for over a month in a regular police station before being transferred to the Director of Intelligence and Federal Investigations, following which he was returned back to the same police station. During this period, the Director of Intelligence and Federal Investigations denied to his family that they were holding him. Family members alleged that the boy had been subjected to torture, that he had been held incommunicado and that he had been forced to make a confession. The family, through their lawyer, had made an application to the courts to have him medically assessed; however, when he was examined in mid-April by non-specialised medical staff, the report found no evidence of mistreatment. Finally when the boy was interviewed by UNAMI in October, he still bore visible cigarette burn scars on his arm, which he told UNAMI he had received during the first week of his detention at the police station. The boy remained in detention at an ordinary police station in a cell with adults until he was convicted by the Juvenile Court in Kirkuk on 16 October and sentenced to six years imprisonment.

There is a lack of alternatives to detention for children in conflict with the law in Iraq. Physical conditions in places of detention of children continue to be poor in various parts of the country and are characterised by a lack of basic infrastructure, poor hygiene, poor ventilation, and poor quality food, water and medical care. Children are frequently detained along with adults and do not have access to education and psycho-social or specialized assistance appropriate for children.

Kirkuk, for instance, does not have a proper Juvenile Re-education and Correctional Center and male children arrested and under investigation or on remand are held in the Kirkuk Police Station in two cells reserved for them. Girls are held along with women detainees in the Kirkuk main detention centre (*tasfiraat*).⁴⁵ Once convicted, children are separated from their families and usually transferred to Bagdad to serve their sentences. During a monitoring visit to Kirkuk Juvenile Police Station on 7 October, 23 children (all male) were found to be sharing two small cells designed to hold only eight persons each. Eight of the children had been convicted for deliberate homicide, robbery and homosexual activity, while fifteen were detained under investigation or pre-trial detention for homicide, robbery, terrorism, abduction, perjury and petty misdemeanours. The cells had poor hygiene and ventilation (only one cell had a functioning AC), food was insufficient and of poor quality, and clean drinking water was lacking. The children stated that they were permitted outside to exercise once per day and that there is a clinic to look after their medical issues, although it is poorly equipped and of limited capacity. Five of the children, including one Syrian boy charged with entering the country illegally on 2 October, said they had no legal representation. A source in the facility said that the Kirkuk education department had visited the children to plan for the next school semester in 2013, but this information was not verified by UNAMI.

The MRM recorded four verified incidents against educational establishments and staff. For example, one of the incidents affecting schools verified on 24 September in Anbar governorate, Heet district, resulted in the killing of five students (four girls and one boy) and injuries to six boys, when a car bomb detonated in front of Al-Kifah primary school on the very first day of the school term.

Forced marriage of minors is a violation of Iraqi law and the International Covenant on Civil and Political Rights, and constitutes a form of child abuse. Iraqi marriage law states that both parties must be over 18. However, religious marriages of children are frequently performed. UNAMI has been asked to intervene in a number of cases of girls as young as 13 who had allegedly been subjected to forced marriages. Since such marriages are frequently not registered, children of these marriages can have problems registering for birth certificates, and girls whose husbands have died are unable to access financial and other forms of support.

⁴⁴ This figure may not be comprehensive as it only reflects the numbers of children held in MoLSA run facilities, not those who may be detained in facilities run by the MoI or the CTD.

⁴⁵ On 14 October, UNAMI conducted an inspection visit to the female cell in Kirkuk detention centre. There were nine female detainees in pre-trial stage: two were charged with kidnapping, two with homicide, two with prostitution, one with forgery, and two with robbery. Two of the detainees were sisters at the age of 12 and 15 years.

Of particular concern are children born from Iraqi mothers and so-called ‘Arab fighters’, mostly from armed groups such as Al-Qaeda, after 2003. According to Iraqi NGOs working on the issue, many women were forced to marry fighters from Al-Qaeda and other terrorist groups in areas where there was little or no Government control. According to these NGOs, the number of these children range from 400 to nearly 2,000 and reside mostly in Mosul, Salahiddin, Anbar, Diyala, and Haweja district and Ryath and Zab sub-districts of Kirkuk. Article 3, paragraph (a) of the Nationality Law no. 26 of 2006 guarantees Iraqi nationality to any child born to an Iraqi father or an Iraqi mother. While the above-mentioned children can thus be registered, it is claimed that the fact that a parent of these children are fighters or terrorists will be recorded in their civil records, which opens up the possibility of discrimination against those children in the future. Furthermore, because their marriages are not officially registered before a court and they do not have marriage certificates, women whose husbands have died, disappeared or been arrested cannot apply for social welfare or other means of financial support. As many of the children of fighters have no IDs, they are unable to access health or educational services available to other children.

Children are also subjected to domestic violence and other criminal acts of violence, although precise statistics are not available. A four-year-old and a five-year-old girl were kidnapped, raped and murdered in two unrelated incidents in al-Zubair district of Basra governorate in August and October. Suspects were apprehended quickly and convicted of committing the crimes while drunk. Contrary to initial media reports, one of those convicted was not executed in public before he could lodge an appeal, but he has indeed been sentenced to death although at time of writing the sentence remains unimplemented, with the victim’s family supporting the punishment.

Poverty continues to be of concern in relation to children, particularly their access to basic services, including healthcare, education, proper nutrition and clean-drinking water. According to a report published by UNICEF and the GoI, around a third of Iraq’s 16.6 million children are currently deprived of many basic rights and services.

In a positive move, the MoHR conducted over 49 monitoring visits to schools in different locations throughout Iraq to examine access to education. The findings of these field visits have been circulated to various ministries and institutions responsible for ensuring education. Additionally, the MoHR conducted a review of the legislation and regulations relating to children and has prepared summaries and recommendations for further consideration by the GoI.

10.1 Rights of children in the Kurdistan Region

In the Kurdistan Region, KRG MoLSA is assisting children who have lost their families to be accommodated in government-run orphanages. Also, children whose families are incapable of providing adequate care for them for economic or social reasons are reunited with their families or placed in foster homes – with regular allowances paid by MoLSA. According to MoLSA, the number of children hosted in orphanages in the three governorates of the Kurdistan Region, as recorded at the end of the year, is 198: 117 boys and 81 girls. The number of children reunited with their families or placed in foster homes (foster families) is 292 boys and 312 girls.

As part of its regular monitoring of detention facilities in the Kurdistan Region, UNAMI conducted visits to the Reformatory for Juveniles and Women in Erbil. UNAMI observed that the juveniles were accommodated in separate cells according to gender, age and charge. Moreover, a school supported by the KRG Ministry of Education is being built inside the reformatory to enable the juveniles to complete their education. In addition, a hall is being constructed for sport activities, and provision has been made for family visits. Most juveniles in this reformatory were convicted for homosexuality, which is considered a crime in the Kurdistan Region.

11. Freedom of Expression

Respect for freedom of expression remains of concern. UNAMI received reports that journalists continued to be targeted with violent attacks, harassment, intimidation and arbitrary arrest for reasons related to their profession. Such acts were perpetrated by extremists and insurgents, government officials, or unidentified attackers. In some instances journalists were arrested and detained because of publications perceived to be critical of the Government or exposing corruption. According to reports received from national organizations monitoring freedom of expression and the protection of journalist, five journalists were assassinated in 2012 and 50 cases of violence against journalists recorded in different provinces. The violations ranged from

assassination, killing attempts, temporary arrest, detention and direct physical assault to insults, verbal abuse or abusive media coverage, confiscation of equipment and financial fines.

On 17 November, Iraqi security forces announced that they had found the corpse of Iraqi journalist Sameer Qasim Ali, editor-in-chief of Al-Jamahir Al-Baghdadiya weekly newspaper, in Sheikh Omar area of Baghdad. Police stated that the dead journalist had been shot three times in the chest while driving his car. According to the Iraqi Journalists Union, Sameer had held his post for three years and had been an active campaigner for human rights and freedom of expression. There is no known motive for the killing and the official investigation is ongoing – however, the MoHR informed UNAMI that investigations had revealed that he had been killed as a result of a family dispute and that he was not targeted because of his profession.

On 8 July, the leader of the Al-Sadr Trend, Muqtada Al-Sadr stated that “celebrating Iraqi press freedom day is something unprecedented and offends the views of Islam”. Al-Sadr was responding to a query from one of his followers who had asked about the benefit of celebrating press freedom “while the citizens are suffering from hard living conditions”. Despite this, the Iraqi Journalists Syndicate held a celebration party in Baghdad sponsored by the GoI to mark the event.

On 14 July, Iraqi news websites condemned an official memorandum issued by the General Secretariat of the Council of Ministers, signed by its Secretary, Ali Al-Allaq, asking the National Centre for Media to hire expert staff to “hack into and monitor” several Iraqi news websites. The memorandum expressed the necessity of monitoring electronic media, especially those reporting on alleged government corruption. Two committees of the Council of Representatives, the Integrity Committee, and the Education and Media Committee, condemned the memorandum as an obvious violation of freedom of expression.

In December, the Baghdad Operations Command closed the offices of Al-Mahaba Radio station and Al-Baghdadiya TV in Baghdad. The Baghdad Operations Command had acted on orders it had received from the CMC claiming that the organisations concerned had not obtained proper licenses. Spokespersons from both media outlets insisted that they were properly licensed and operating lawfully, and that the closures were due to political reasons because they had broadcast criticisms of the Government.

UNAMI, along with a number of civil society actors and media pressure groups, has expressed concerns to the government over a number of legislative initiatives on press freedoms, freedom of expression and freedom of information that fall short of international standards. Among these was the Cybermatics Crime Law, also known as ‘Law on Crimes of the Internet’. Following advocacy from international organisations, civil society and the international community on concerns about the restrictions contained in the law, the Office of the Speaker of the Council of Representatives formally issued a letter withdrawing the bill. Nevertheless, there are a number of other bills before the Council of Representatives that fall short of international standards, including the draft Law on the National Commission of Information and the Law on Freedom of Expression, Assembly and Demonstration.

Public demonstrations took place throughout various locations in the country concerning a variety of issues. Most demonstrations passed off peacefully without violence.

For instance, nearly 25 women gathered for half an hour outside the Kirkuk Provincial Council (KPC) building on 4 July to demand women’s representation in city councils of districts and sub-districts. The demonstration was organized by the Al-Amal Society, a non-governmental organization, and represented women from the districts of Dakuk, Laylan, and Qarahanjeer, as well as Kirkuk. More than 10 media channels covered the event. A deputation of KPC members met the organizers of the gathering and received their letter of demands. It should be noted that there are currently no women on the KPC and its districts and sub-districts.

During Ramadan in July, Basra witnessed a series of demonstrations to protest against the lack of electricity. The police fired warning shots and arrested a few protestors, who were all released subsequently without charge.

On 1 October, two demonstrations were held, one in front of the Ministry of Higher Education, and the other one in front of the Ministry of Education in Baghdad. The demonstrators, who numbered a few hundred, were students and family members demanding that the Ministries organize a third round of exams for those who could not sit or pass the exams held in the two formal rounds during the school season. The demonstrators explained in their leaflets and speeches that the situation in Iraq is exceptional, and many students were not able to attend the exams due to security obstacles. The demonstrations were supported by some political parties and members of the Council of Representatives. In response, both ministries

announced that the Government had approved the third round of exams, but with special conditions, and that only those who could not attend the first two rounds of exams would be permitted to sit, but not those who had failed the exams previously.

On 19 October, few hundred people demonstrated in Baghdad/Al-Sha'ab area. The protesters were followers of the Shia'a scholar Al-Sarkhi, and were demonstrating against the Government's announced plans to buy military weaponry when, according to their leaflets and banners, "the people are living in poverty and hunger and suffer from a lack of security".

In November, following the announcement by the Council of Ministers that the public distribution system based on the ration card system would end and be replaced by payments made directly to eligible citizens, there were many small demonstrations and gatherings held in almost all Iraqi provinces, condemning the decision and asking the government to cancel it. Larger demonstration involving hundreds of people were held in Baghdad, Kirkuk, Diyala, Mosul, Najaf, Nasiriya, and other provinces and districts, with the demand that the GoI reverse its decision. All protests were held peacefully, and no violence or injuries were reported. In response, the Government announced that the decision had been withdrawn and that the current Public Distribution System would be retained until a suitable alternative was found.

On 16 November, a few hundred protestors demonstrated in Baghdad's Tahreer Square against official corruption. The demonstration was organised by labour unions and civil society organizations. Labour organisations also demanded that the Government do more to improve the working conditions for workers and that it consider introducing new laws on retirement and social insurance. The demonstration lasted only a few hours and ended peacefully.

Following the arrest of the bodyguards of Rafie' Al-Issawi, Minister of Finance, demonstrations broke out in Anbar on 23 December and quickly spread to other Sunni based areas of the country, including Ninewa (Mosul), Salahiddin, and Kirkuk. While the demonstrations appeared to have been sparked by the said arrest, the size of the demonstrations and the alacrity with which they spread revealed more deep-seated issues affecting the Sunni population. Among these are the perception by Sunnis that they have been excluded from the Government of Iraq and other institutions, and are subject to discrimination and harassment by it, including abuse under the Anti-Terrorism Law, and by the actions of the Justice and Accountability Commission. Demonstrators demanded the repeal of the Anti-Terrorism Law and the release of persons held without charge or trial under it, the abolition of the Justice and Accountability Commission, the protection of female detainees and the return of women awaiting trial to their provinces, and the passing by the Council of Representatives of the General Amnesty Law. The only violence recorded against demonstrators was in Mosul on 28 December, when three demonstrators were wounded by gunfire from an Iraqi Army patrol. In relation to this incident, the MoD issued a statement that the military were under orders not to open fire on demonstrators. The Ministry stated that the incident had been a misunderstanding between the military force and a police patrol accompanying the protest that had led to an armed clash between the two and to the unintended injury to three civilians.

Prime Minister Al Maliki at first refused to countenance the demands of demonstrators, but at the end of December he appointed former Deputy Prime Minister Al-Zubaie (Sunni) to engage in mediation with the demonstrators. He also appointed a "Wise Men Committee" headed by leading Sunni and Shi'a community leaders to investigate the alleged abuse of female detainees in detention centres and to make recommendations on the release of some detainees. Meanwhile Al-Iraqiya leaders called on the Prime Minister to resign and for the holding of early elections. The Prime Minister appeared to reject demonstrators' demands concerning the amendment or repeal of the Anti-Terrorism Law and the abolition of the Justice and Accountability Commission.

By the very end of the year, counter-demonstrations had started in predominantly Shi'a areas of the country, calling on the Government to reject the demands of the Sunni demonstrators and threatening to polarize the country along sectarian lines.

Demonstrations continued in various parts of the country throughout the remainder of the year.

11.2 Freedom of Expression in the Kurdistan Region

In general the level of violations and harassments against journalists and media workers reported in the Kurdistan Region appeared to be lower in the second half of the year compared with the first six months. The

Metro Centre for Defending Journalists (MCDJ) reported a total number of 28 cases⁴⁶ of violations committed against media workers in connection with their professions for the last six months of 2012: eight cases of alleged physical mistreatment, five of verbal assaults or threats, 13 cases of harassment, and one case where a journalist was convicted by a court. This compares with 51 cases reported by the Kurdistan Journalists Syndicate, of which 14 cases concerned alleged physical assaults and batteries, 11 cases of threats and harassment, 18 were journalists claimed they had been prevented from performing their duties, five cases when journalists and media professionals were detained, two incidents of arrest, and one case where a journalist was convicted by a court.

UNAMI continued to monitor allegations of violations against media professionals. On 1 July, a number of physicians organized a strike at the Western Emergency Hospital in Erbil, demanding better allowances and living conditions. Several journalists attempting to cover the event were targeted and mishandled by Zervani forces according to independent witnesses. The MCDJ claimed that around ten journalists had been mistreated in the incident, but UNAMI could only confirm the names of six. The incident was condemned in a press statement by the Kurdistan Journalists Syndicate. The KRG MoI launched an investigation into the matter and found that only one journalist had suffered mistreatment. It announced that disciplinary action had been taken against the perpetrator.

While people were demonstrating against the Turkish army's bombardment of the Qandil area on 26 August, journalists from NRT, KNN and Gali Kurdistan stated that the security forces had prevented them from covering the event. No reasons were given by the security forces as to why media coverage was not permitted.

On 5 September, Asayish closed the offices of Hawdam magazine in Dahuk. The office manager of the magazine alleged that the office had been closed arbitrarily and in spite the fact that the magazine had been operating in Dahuk for more than a year. and that permission to open the office had been sought from the Asayish Directorate in Dahuk. However, according to the head of the investigation department of the Asayish in Dahuk, applications by media outlets for permission to operate need to be lodged with the Kurdistan Journalists Syndicate, not with the Asayish, which has no legal authority to grant operating licenses, but is required by law to close organisations which fail to obtain an operating license from the said Syndicate. The Kurdistan Journalist Syndicate told UNAMI that it had never received an application from Hwadam magazine to operate. It is important to note that the magazine has offices in Erbil and Sulaimaniya.

On 7 October, a court in Erbil sentenced journalist Karzan Karim to two years imprisonment after convicting him under articles 1 and 2 of Law no. 21 of 2003⁴⁷ for leaking State information through his agency. Karim had been arrested by the Asayish in Erbil on 5 November 2011. It should be noted that the case concerned articles written and published by Karim, in which he alleged corruption by officials working in Erbil international airport. Despite raising matters of legitimate public concern, he was not charged with violations of the Journalism Law No. 35 of 2007 of the Kurdistan Region, but for leaking State secrets. UNAMI has raised its concerns about the case with the Kurdistan Government.

On 10 October, Shawqi Kanabi, the head of the Erbil office of KNN, was arrested according to article 433⁴⁸ of the Criminal Code and released after paying one million Iraqi dinars for bail.

Hiwa Dartash, a reporter at Badinansat, along with a cameraman, Mahir Majeed, allegedly faced harassment by the security forces at Domiz Syrian Refugee camp on 29 October. Subsequently, the security forces confiscated the tape on which he had recorded interviews with refugees and others.

A team of journalists from KNN TV covering a demonstration in Zarrayan sub-district on 8 November was allegedly harassed by members of the Asayish, who also confiscated their camera. The demonstration was targeting the Mayor of the sub-district for not being active in administrating the municipality, and for the inadequacy of services provided to people in the area.

On 19 December, a group of Persons with Disabilities attempted to organize a strike in front of the Council of Ministries of the KRG, but police in Erbil forcibly removed them.

⁴⁶ MCDJ published its report on 3 January 2013.

⁴⁷ Act no. 21 of 2003 of the Kurdistan Parliament amended Article 156 of the Iraqi Penal Code (IPC) no. 111 of 1969, related to the leaking of State secrets and breaches of national security.

⁴⁸ Article 433 of the Iraqi Penal Code no. 111 of 1969 deals with issues related to criminal defamation and insults.

12. Other Human Rights Issues

12.1 Camp New Iraq (Camp Ashraf)/ Camp Hurriya (Camp Liberty)

Concerned that the decision by the GoI to close Camp New Iraq might end in violence, the Special Representative of the Secretary-General (SRSG) for Iraq, Mr Martin Kobler, signed a memorandum of understanding (MOU) with the GoI on 25 December 2011 aimed at facilitating the voluntary and peaceful transfer of the residents of Camp New Iraq to a temporary transit facility located at the former US military base known as Camp Liberty (Camp Hurriya) within the Baghdad International Airport zone (BIAP). The GoI agreed that the United Nations, through UNHCR, would process the residents at this transit facility and would examine ways to facilitate their departure from Iraq. The MoU stresses that no resident will be forcibly returned to Iran.

Under the MOU, the United Nations has an impartial and facilitating role. The GoI is responsible for ensuring the safety and security of the residents during their stay in Camp Hurriya and during their relocation to Camp Hurriya. The GoI is exclusively responsible for ensuring that transit and living conditions meet international human rights and humanitarian standards. The UN monitors the relocation process and the conditions in Camp Hurriya and through UNHCR conducts the verification of asylum-seekers and the determination of individuals in need of international protection. The GoI allows Camp Hurriya residents to make their own arrangements for the provision of water, food, communications, sanitation and the maintenance and rehabilitation of equipment.

Since the arrival of the first 396 residents in February 2012, the United Nations has had monitors in Camp Hurriya through regular visits and a 24-hour hotline. The United Nations' activities include: observing adherence to international human rights obligations; reporting on humanitarian conditions, abuses or violations of human rights; interviewing; and advocating appropriate actions with relevant parties and facilitating dialogue. The monitors have continuously conducted these activities and observed the conditions at the camp, which they have consistently found to meet basic international humanitarian and human rights standards.

As at 31 December 2012, there were 3,086 residents in Camp Hurriya – while one hundred residents remain in Camp New Iraq, pending settlement of their property claims.

The residents of Camp Hurriya live in residential containers. On average, there are between two and four persons per container, as allocated by the residents' leaders, with at least seven square meters of living space per person.⁴⁹ All rooms are fully air-conditioned. Residents are free to undertake renovation projects with the approval of the camp management. They have completed a range of landscaping initiatives and refurbishment of buildings. They are also free to bring in external contractors to implement these projects, with the agreement of the camp management. The camp has a dining facility with an industrial kitchen, a fully equipped gym, a mosque, several community centres, and numerous recreational spaces. A medical facility is staffed by an Iraqi doctor. Ambulances are on constant standby. The GoI ensures movement of residents to any external medical appointments as necessary. Bottled drinking water is imported by the residents. In addition, each resident has around 200 litres of water per day for hygiene and other uses.⁵⁰ By September, the residents had installed their own water pumping and purification plant in the camp. Electricity is provided by 19 generators.⁵¹ Those residents authorized by their leaders have access to cell phones and the internet. All residents can watch the satellite television channel operated by the People's Mujahedin Organisation of Iran/Mujahedin-e-Khalq (PMOI/MeK) in communal facilities where television sets are installed.

12.2 Refugees and Internally Displaced Persons

During the reporting period there were no legislative developments in relation to refugee protection. The GoI is not a signatory to the 1951 Convention and its 1967 Protocol, and the protection of refugees remains governed by the 1971 Political Refugee Act. The revised draft of the refugee law, which was prepared in 2009 and on which UNHCR has commented, remains pending with the Council of Representatives. In the

⁴⁹ Sphere Standards require living space of 3.5m² per person in a refugee camp setting.

⁵⁰ Basic humanitarian standards require around 100litres of water per persons per day. In many areas of Iraq, the average person receives between 70 and 120 litres of water of varying quality per day.

⁵¹ It should be noted that the average Iraqi in Baghdad has access to 6-9 hours of electricity per day.

absence of a comprehensive national framework or procedures to address asylum claims, UNHCR continues to undertake refugee status determination pursuant to its mandate. Status decisions taken by UNHCR are largely respected by the GoI, and registered refugees and asylum seekers have access to employment, education and public health services. UNHCR continues to advocate with the Government to ensure that the principle of *non-refoulement* is respected. Application of the Foreigners Residency Law no.118 of 1978 to refugees and asylum seekers who have entered Iraq illegally has resulted in jail terms being imposed in a number of cases during 2012. Subsequent deportation orders were suspended following intervention by UNHCR.

As at the end of December, a total of 98,778 refugees and 5,133 asylum seekers were registered with UNHCR,⁵² including Palestinian, Iranian, Turkish and Syrian nationals, who live in camps, settlements or urban areas of Iraq, with a majority of around 80 percent residing in the Kurdistan Region.⁵³

Following a GoI decision in October 2010 to close the Al-Waleed refugee camp in Anbar Governorate by 15 April 2012, UNHCR continued to work closely with the authorities and the refugee community, comprised predominantly of Palestinians, Iranian Kurds and Iranian Arabs, to relocate the residents of the camp to other parts of Iraq. For persons who wish to relocate, UNHCR is providing a relocation package including transportation, rental subsidies and cash grants. By the end of the reporting period 218 individuals remained in the camp (49 Palestinians, 148 Iranian Kurds, 17 Iranian Arabs, 3 Somalis and 1 Saudi). All projects and assistance were halted, except for the supply of water and medical assistance for chronic diseases. UNHCR continues to advocate with the refugees to relocate.

Since February 2012, Syrian nationals have been entering into the Kurdistan Region of Iraq. The influx continued during the reporting period, and the Kurdistan Region authorities maintained an 'open door' policy towards persons fleeing violence. The Central Government temporarily opened the border to Syrians fleeing violence from 25 July to 12 August. From 18 September, entries were limited to 100 in addition to 20 to 30 vulnerables per day. From 21 October, the Al-Qa'im border has been opened only to medical emergencies and family reunification cases. Incidents of *refoulement* undertaken by the Army were also reported. By the end of December 2012, 63,255 Syrian refugees were located in Iraq and registered with UNHCR, 54,485 in the Kurdistan Region and 8,797 in the Central and Southern Governorates (mostly in and around Al-Qa'im camps).⁵⁴ Camps have been established in Dahuk and Al-Qa'im in coordination with the local authorities.

Temporary residence permits have been granted in the Kurdistan Region, where refugees have freedom of movement, while the Central Government has generally enforced a strict encampment policy. As an exception, 2,266 individuals were granted freedom of movement following a sponsorship procedure that was limited to specific categories of individuals, mostly with family links to Iraqis. During the reporting period, UNHCR and partners advocated for open borders and freedom of movement, prepared the refugees and the camp infrastructure for the winter, and developed an urban strategy, as well as prevention and response measures in the areas of child protection and sexual and gender-based violence.

12.2.1 Internally Displaced Persons (IDPs)

According to the last official Government statistics (January 2013), 1,131,810 persons (192,736 families) were registered as IDPs with the Ministry of Migration and Displacement (MoMD). During 2012, IDP returns took place at a relatively steady rate, with a total of 218,800 individuals reported to have returned,⁵⁵ and with no significant new displacement. Recent surveys on the intentions of IDPs indicate that up to 80 percent of the registered displaced are unwilling or unable to return to their places of origin. Reasons cited include security concerns as well as economic hardship.

IDPs live with host families, in rented accommodation or in informal settlements. According to a door-to-door assessment conducted by UNHCR during the reporting period, 33,309 families (191,162 individuals) live in informal settlements in Baghdad alone. IDPs living in settlements continue to face serious challenges, with sub-standard shelter and lack of access to basic services. For displaced women and girls, the harsh

⁵² Source: UNHCR Annual Statistical Report.

⁵³ Source: UNHCR.

⁵⁴ Source: UNHCR Annual Statistical Report.

⁵⁵ Source: UNHCR Annual Statistical Report.

economic and social conditions create particular protection challenges, with an increased risk of gender-based violence and exploitation. IDPs in informal settlements remain at risk of eviction.

In April 2012, the MoDM proposed a revised strategy to address the issue of displacement, focusing on integration. The strategy aims to provide financial assistance not only for IDPs who return to their places of origin (4 million Iraqi dinars), but also for those who opt to remain in their current place of displacement (2.5 million Iraqi dinars). Shelter and livelihood support are key components of the draft strategy. MoDM, in coordination with UNHCR and line Ministries, has already applied the most important component of the National Strategy to End Displacement, which is focused on land allocation and the construction of low-cost shelter. Construction is ongoing in Baghdad, Babylon and Mosul.

In Kirkuk, the government threatened to evict or remove persons found to be unregistered or without legal residency or other official documentation. On 18 October, Kirkuk police arrested 36 civilians from other governorates in Wahid Huzayran quarter in south Kirkuk for failing to have legal identity documents. On 6 November, Kirkuk police again arrested 19 civilians for not having official identification papers or residence approvals in the south of Kirkuk. According to the Kirkuk Department of Displaced there are 8566 registered and between 2000-3000 unregistered IDP families in Kirkuk.

12.3 Migrant Workers

Iraq is home to a significant number of migrant workers, some of whom face a precarious situation, largely due to the absence of a strong legal framework to protect migrant workers from abusive practices. UNAMI continues to receive reports of migrant workers suffering from poor working and living conditions and exploitation at the hands of unscrupulous employers. Some migrant workers report being forced to work and live in confined and substandard conditions, without guarantees of proper salaries or working conditions. Many reports were received that workers were prohibited by their employers from taking holidays or time off work.

UNAMI continued monitoring the situation of detained or convicted foreigners, particularly migrant workers. Some migrant workers previously employed by MNF-I and USF-I, when they were exempt from Iraqi passport and visa regulations,⁵⁶ stayed behind in Iraq when the foreign troops left, hoping to find other employment. Others entered Iraq illegally, either on the false advice of unscrupulous employment agents or because they hoped to remain undetected. In reality, Iraqi authorities deal harshly with immigration irregularities. Offenders are routinely condemned to lengthy prison sentences, with a duration of three years or more for staying in Iraq without proper documentation, and five years or more for illegally entering Iraq. From Basra alone, authorities deported 453 undocumented migrant workers during 2012. South Asian migrant workers in particular were disadvantaged because they were often uneducated, spoke no Arabic and lacked consular assistance.

Although many of the reports are difficult to substantiate, it appears that exploitation and abuse are partly due to the lack of enforcement of existing laws by Government authorities, a lack of understanding of workers' and migrants' rights, and the reluctance of the Government to ensure that migrant workers are able to obtain appropriate visas to regularise their entry and stay in Iraq.

Migrant workers entering Iraq from the Kurdistan Region often only have legal permits to remain and work in the Kurdistan Region itself. However, many such workers believe mistakenly that their permits cover all of Iraq. If discovered in Iraq, they are subject to arrest, detention and deportation. Many of those detained in Kirkuk are deported back to the Kurdistan Region by the MoI Residency Directorate in Kirkuk, with deportees' passports annotated with a prohibition on their re-entry to Iraq for five years for failing to abide by the regulations.

For example, on 25 October, Kirkuk Police arrested 10 Turkish engineers and experts working for a company constructing a military hospital for the federal MoD in Kirkuk on the basis that their permits had been issued by the KRG, not the federal MoI in Baghdad. The detainees spent more than one week in detention until the Court in Kirkuk ordered their removal to the Kurdistan Region for violating Iraqi residency regulations.

⁵⁶ CPA Order 17, Section 13(2) of 27 June 2004.

On 8 November, 15 Turkish citizens working on the construction of a hospital in Haweja were released after their detention at a checkpoint operated by the Iraqi Army southwest of Kirkuk for not having valid residency permits issued by the federal MoI in Baghdad, despite the fact they had permits issued by the KRG and had entered Kirkuk from the Kurdistan Region.

12.3.1 Migrant workers in the Kurdistan Region

Due to its relative peace and stability and subsequent economic progress, the Kurdistan Region is attracting increasing numbers of migrant workers. UNAMI documented numerous cases of mistreatment of migrant workers, confiscation of passports, substandard living conditions and violations of labor law, including safety standards for work. A number of migrant workers were detained without receiving information in a language they could understand. While the KRG has provided instructions to recruitment agencies that hire migrant workers (Instruction No.2/2007), regulations are often not upheld and abusive practises are commonplace. Cooperation between relevant ministries is limited and the authorities' monitoring role is poorly developed. Migrant workers are required to obtain a residency and work permit from the KRG. However, foreign migrant workers frequently arrive in Iraq and are later brought into the Kurdistan Region illegally, which renders them particularly vulnerable.

13. Iraqi High Commission for Human Rights

As previously reported, the Experts Committee appointed by the Council of Representatives to select the Commissioners to serve on Iraq's first Independent High Commission for Human Rights concluded its work on 9 April, when the names of 14 candidates (11 permanent Commissioners and 3 back-up Commissioners) were endorsed by the Council of Representatives. The law establishing the Commission requires that women's representation should not be less than one third of the number of Commissioners.⁵⁷ The Committee of Experts interpreted this to mean one third of the total number of Commissioners (permanent and back-up) and thus recommended that only four women be appointed to serve on the Commission – two as permanent Commissioners and two as back-up Commissioners. This decision was subsequently challenged by three women's organisations before the Federal Supreme Court, which ruled on 19 September that a total of five Commissioners should be female. As a result of discussions within Parliament on how to implement the ruling, it was agreed that one female back-up Commissioner would be appointed as a permanent Commissioner to fill the vacancy created by the death of one of the permanent Commissioners, and that a female candidate would be appointed by the Council of Representatives as a back-up Commissioner - thereby raising women's representation on the Commission to five, as required by the law and in compliance with the ruling of the Federal Supreme Court. Nevertheless, by year's end, the Council of Representatives had not yet endorsed a female candidate to serve as a back-up Commissioner, although it had endorsed the appointment of one of the current female back-up Commissioners to permanent Commissioner status.

In addition to this issue, the law establishing the Commission requires the Commissioners to select one of their members to serve as President of the Board of Commissioners. By the end of the year, the Commission had not yet selected a President, primarily owing to political interference from outside the Commission, which was preventing the selection from taking place. UNAMI has serious concerns that without a President, the full functioning of the Commission in compliance with its mandate under law and the Constitution will be impaired.

Despite this difficulty, the Commission worked throughout the reporting period to commence operations. A preliminary budget was granted to the Commission by the Council of Representatives to cover its basic operations from May to December. A temporary office location, the former Baathist Parliament building, was also granted for the use of the Commission, and the refurbishment of this building was on-going. In addition, the Commission has embarked on the recruitment of a number of support and secretariat staff.

⁵⁷ Law of the High Commission for Human Rights, 16 November 2008, Article 8.4. Application is made the more difficult because the total number of commissioners (14) cannot be divided evenly by three; likewise the total number of permanent Commissioners (11) cannot be divided evenly by three. In the end, the Committee of Experts read the legislation to require that one third of the total number of Commissioners (permanent and back-up) should be women, and rounded the number down to four, which in its view complied with the requirements of the law – despite advocacy from UNAMI that the number should be rounded up to five, with at least four women appointed to serve as permanent Commissioners.

UNAMI in partnership with UNDP has continued to provide technical and logistical support to the Board of Commissioners. UNAMI and UNDP facilitated a training session in Morocco from 9-14 September, during which members of the Board of Commissioners received expert guidance from the Human Rights Commissions of Morocco and South Africa, as well as expert guidance provided by OHCHR's Middle East Regional Office. The training focused on the role of commissioners, the structure of human rights commissions, and requirements of the mandate. As a result of this workshop, the members of the Board of Commissioners agreed on a common understanding of the mandate, its core thematic and functional priorities, a structure for the Commission secretariat, and a work plan for the coming twelve months.

UNAMI and UNDP conducted a second workshop in December for the Board of Commissioners aimed at training them on practical skills involved in delivering the Commission's mandate. The workshop covered practical aspects of the protection mandate, including detention monitoring, the role of national human rights institutions in the protection of human rights defenders, the processes for receiving, investigating and making recommendations on individual complaints lodged with the Commission, holding public inquiries, practical aspects concerning the promotion of human rights, public advocacy, reporting, and preparing submissions, reports and recommendations to the Council of Representatives and the Government.

UNAMI, along with OHCHR, UNDP and UNOPS, with funding received from the European Union and Sweden, prepared a programme in consultation with the Commission and other stakeholders to build the capacity of the IHCHR over the coming 12 months to two years. The programme aims to ensure the performance of the Commission's functions according to its mandate and internationally accepted principles, as the corner stone of a nationally owned and led protection system for human rights in Iraq.

13.1 Kurdistan Region Independent Board of Human Rights

On 9 December, UNAMI in coordination with the secretariat of the Independent Board of Human Rights held a round-table discussion on activating the Board in the Kurdistan Region in full implementation of the Law on the Independent Board of Human Rights of the Kurdistan Region (Act No. 4 of 2010). Among the key outcomes of the round-table were recommendations that the KRG should take immediate action to implement the law by appointing a suitably qualified individual experienced in human rights to serve as the President of the Board, and that the selection should be made through an open, transparent and competitive process.

On 10 December, during a conference organized by UNAMI to celebrate Human Rights Day, the recommendations from the roundtable were formally presented to those in attendance, including the Speaker of the Kurdistan Region Parliament and other members of parliament, judges, Ministers, and representatives of civil society. On 17 December, the Kurdistan Region Parliament appointed Mr Dhiyaa Butrus as the Head of the Independent Board of Human Rights of the Kurdistan Region. However, the process of appointment was criticized immediately by opposition parties, because the Speaker of the Kurdistan Region Parliament had tabled the CV of only one candidate for Parliament to accept or reject. Opposition parties demanded that a number of CVs be tabled in order to give Parliament the opportunity to compare and assess the candidates and to vote accordingly. However, this proposal was rejected by the Speaker. As a result, a number of opposition parties left the parliament in protest and refused to vote on the appointment.

14. National Action Plan for Human Rights

Within the framework of the UN Human Rights Council's Universal Periodic Review process, under which Iraq was reviewed in February 2010, Iraq accepted 135 out of 172 recommendations. In order to fulfill its commitments, the GoI developed a National Action Plan on Human Rights in consultation with key stakeholders from the Government, Parliament, the judiciary, and members of civil society. The National Action Plan was formally approved by the Council of Ministers in resolution number 357 on 27 September 2011. At the same time, the Council of Ministers agreed to establish a cross-sectoral Committee to oversee and coordinate implementation of the plan.⁵⁸ This Committee is chaired by the MoHR and has representatives from the MoI, MoJ, MoD, the KRG's MoJ, Ministry of Health, MoLSA, the Minister of State for Women's Affairs, Ministry of Governorate Affairs, the Council of Ministers, the Speaker and Human

⁵⁸ The Committee is officially known as 'The National Committee on Human Rights for the Coordination and Follow-up on Implementation of the National Action Plan on Human Rights'.

Rights Committee of the Council of Representatives, and the IHCHR, in addition to three representatives from civil society organisations from different parts of Iraq, and UNAMI.

The Committee held over 13 meetings during 2012 and continued its work by conducting training of the staff of relevant ministries on their responsibilities in relation to implementation of the National Action Plan as well as their reporting obligations. During November, the Committee held three seminars in southern Iraq (Basra, Wasit and Missan Governorates) for government officials and Provincial Councils to be informed of their roles and responsibilities in implementing elements of the National Action Plan.

On 19 December the Committee held a National Conference to launch its first annual report on progress made in implementing the National Action Plan for Human Rights. According to the report, 99 recommendations were partially implemented, 33 recommendations fully implemented, and 3 recommendations not implemented.

In addition, the Ministry held number of workshops, seminars and trainings aimed at promoting a culture of respect for human rights in Iraq. The Ministry also published monitoring reports on the internet and issued number of daily media reports on human rights issues. The Ministry also issued statements acknowledging special human rights occasions and participated in special festivals, events and conferences on human rights issues. Furthermore, the Ministry engaged in dialogue with civil society organizations to examine gaps in the respect for human rights and consider means to address those gaps.

14.1 Kurdistan Regional Action Plan for Human Rights

On 13 September, the Directorate of Foreign Relations of the KRG held a press conference with representatives from the Kurdistan Region parliament and presidency to formally announce the implementation of the Regional Action Plan for Human Rights and the establishment of an interdepartmental committee to oversee and monitor its implementation.

On 2 December, the KRG Council of Ministers issued an official letter asking for relevant ministries and selected organisations to nominate their representatives to serve on the Committee. However, by year's end the Committee had not yet been formally appointed.

15. Legislative Developments

The Council of Representatives (CoR) passed a number of laws that had a bearing on the promotion and protection of human rights.

On 30 August, the CoR passed Law no. 54 of 2012, which is the second amendment to the electoral law concerning governorates, districts and sub-district council elections. The amendment reallocated the seats reserved for the minorities in Provincial Councils by article 52, so that four seats are reserved for Christians, Mandaean, Faili Kurds and Turkmen in Baghdad, three seats for Christians, Yezidis and Shabak in Ninewa, and one seat for Faili Kurds in Wasit. The amendment specifically included Faili Kurds and Turkmen in the seats reserved for minorities, whereas previously these groups had not benefitted from any specific allotment. The amendment also introduced a new allocation of seats for minorities for district councils, ensuring one seat for Sabean Mandaean in Basra, Missan and Rusafa, one seat for Yezidi and Shabak in Mosul, and one seat for Christians in Basra, Mosul, Missan, Rusafa and Karkh. The law had previously not allocated seats for the minorities in Districts Councils. However, the amendment maintains the principle of allotting the surplus seats to parties with the largest share of the vote, which caused a number of political parties to reject the amendment, claiming it was unconstitutional as it contradicted the ruling of the Federal Supreme Court in 2012 on a petition from the Communist Party of Iraq that held this method of allocating seats to be undemocratic and unconstitutional, ordering a more proportional allocation formula. As a result, the CoR amended the draft to adopt a new proportional allocation formula.

On 9 October, the CoR passed a law ratifying the Arab Convention to Counter Organized Crime Across National Borders, which Iraq had signed in Cairo on 21 December 2010. On 15 October 2012, it also passed a law ratifying the Convention banning the use, development and transfer of cluster munitions of 2008.

On 12 November, the CoR passed a law prohibiting material or moral coercion of an Iraqi to change his ethnic 'nationality'. The law stipulates a period of imprisonment for breaching the law's provisions.

On 22 November, the CoR passed the first amendment to the Law of the Iraqi High Commission for Human Rights. According to the amendment, any vacancy among the Commissioners should be filled by a candidate of the same religious or ethnic background as the incumbent being replaced.

The CoR considered the draft Law of the High Judicial Council on 15 December 2012. The session during which the Bill was debated witnessed a dispute between the State of Law coalition and Al-Iraqiya, Al-Sadr Trend, and the Kurdistan Alliance. The State of Law Coalition withdrew from the session stating that it will challenge the law in the Federal Supreme Court as it would be passed by the CoR without the required quorum. The State of Law Coalition also demanded that the bill should be considered simultaneously with the Law of the Federal Supreme Court in order to avoid legal and judicial problems. However, other members of the CoR alleged that the State of Law Coalition members had withdrawn in protest at the fact that the Bill appoints the head of the Federal Cassation Court as the Chief Justice of the High Judicial Council, instead of the head of the Federal Supreme Court. State of Law representatives also alleged that the law would permit politicization of the appointment processes for judges. A further controversy centers on the fact that the Bill appoints four Islamic scholars to serve as an advisory panel to the Court, and particularly on the question of whether these scholars will have a right of veto over decisions of the Court.

15.1 Legislative developments in the Kurdistan Region

During the reporting period, the Kurdistan Parliament passed Law No. 11 of 2012 (Law of Support Fund for persons suffering from Cancer in the Kurdistan Region). This is a step towards improving access to health care, insofar as the Law envisages the provision of health insurance and financial support for persons suffering from cancer in order to facilitate treatment, including treatment outside the Kurdistan Region if required.

A draft law on children's rights in the Kurdistan Region is still under review and discussion. The KRG Council of Ministers is considering the draft, prepared by multiple stakeholders in the first half of 2012 and subsequently amended on the advice of UNICEF and the Government. The Children's Rights Committee of the Kurdistan Region Parliament has prepared another version of the draft law, which had its first reading during the parliamentary session on 8 October. The two drafts are to be reviewed by the Legal Committee in the Council of Ministers. UNAMI has received information that the Committee will merge both documents and then submit the final draft to Parliament for discussion and approval. No date for the finalization of the bill has been set.

END

Report on Human Rights in Iraq July - December: 2012

UNAMI/OHCHR
Baghdad Iraq

www.unami.unmissions.org/www.ohchr.org