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Human rights situations that require the Council's attention

**Joint written statement\* submitted by International Organization for the Elimination of All Forms of Racial Discrimination, Association Ma'onah for Human Rights and Immigration, International-Lawyers.Org, Union of Arab Jurists, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 February 2023]

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\* Issued as received, in the language of submission only.



## **Iraq: The Struggle to Combat Enforced Disappearance**

### **Executive Summary**

Enforced disappearances have been a widespread issue in Iraq since the 2003 United States of America invasion. The International Commission on Missing Persons (ICMP) estimates that between a quarter of a million and one million people are missing in Iraq. The reasons behind the disappearances vary, though they all result from the decades of war, conflict, sectarianism, and suffering that have plagued the country. The Ministry of Defense and Ministry of Interior both play a crucial role in enforced disappearances by conducting widespread campaigns of arrest and detention across Iraq. Most of those arrested are not registered, families are not informed of their whereabouts, and in many cases, even the local authorities do not receive sufficient information.

Over time, and after many years of CSO's and international bodies urging the United Nations to provide more recognition to enforced disappearances in Iraq, the Human Rights Council and treaty body mechanisms of the United Nations have started to pay more attention.

However, despite efforts to curb these atrocities in Iraq, cases of enforced disappearance only seem to be escalating, and efforts must be increased to put an end to this injustice.

### **Enforced Disappearances in Iraq**

Enforced disappearance is a pervasive challenge in Iraq. Many enforced disappearances took place during the liberation of the country from ISIS by government-controlled security forces. In subsequent years, security forces across the country controlled parts of the regional government and were responsible for further disappearances of individuals not linked to ISIS, but who were targeted for being Sunni. Thus, these security forces pursued a sectarian agenda which aims to systematically destroy entire villages and uproot inhabitants through widespread sectarian cleansing. Documented evidence shows that excessive violence and force, including beatings with rubber batons, stones, and electric sticks as well as the use of live ammunition and tear gas, has been used by security forces during abductions and assassinations. These perpetrators continue to carry out their activities with impunity.

Detestably, the involvement of the Iraqi militia and security forces does not end there. Since October 2019, there have been a growing number of demonstrators, human rights defenders, and journalists forcibly disappeared. More than 700 protestors have been subjected to abduction and torture in different cities as demonstrations took place across the country from 2019 onwards. Most of these abductions occurred while these individuals returned to their homes after attending demonstrations. These abducted detainees were not informed of the reason for their arrest and were carried out without an arrest warrant. Interrogations took place without a lawyer present, and detainees were not brought before a judge in the time required by law. Many of these demonstrators disappeared after their abduction. The whereabouts of these individuals remains unknown, and their families continue to search for their loved ones.

Most victims of enforced disappearance were seen being picked up by police or security forces, others by uniformed militias and thrown into vehicles. This indicates that they are affiliated with government security forces, yet the government simply denies the arrests were carried out by their forces.

One victim of enforced disappearance is Jalal al-Shahmani, an anti-corruption activist that was kidnapped by a militia in September 2015. Jalal al-Shahmani was walking in the street in Al Wazeriya, a neighborhood in Baghdad, when he was stopped by masked individuals in military uniforms, who took him away in vehicles without license plates. His relatives reported his disappearance to the Suleikh police station in Baghdad, but to no avail; they are left without any official information on his whereabouts since the date of his abduction. His case was sent to the UN Committee on Enforced Disappearances, but his fate remains unknown.

The problem of enforced disappearance persists to this day, in part this is due to corruption, impunity, and the multiplication of security agencies. The actions undertaken by the authorities in Iraq are in violation of the fundamental rights of detained persons according to the CED and other human rights instruments, as well as the government's obligations under the Iraqi Constitution and other domestic laws. The perpetrators are enjoying a state of impunity and participating in ongoing human rights violations with large numbers of victims.

## **United Nations Response**

One notable United Nations mechanism that has recently stepped up to address the issue of enforced disappearances in Iraq is the Committee on Enforced Disappearances (CED).

In its concluding observations to the report submitted by Iraq, in 2015, the CED expressed grave concern at allegations of widespread disappearances and the lack of accurate statistical information produced by Iraq. All the efforts, programmes and laws promoted by the Iraqi government in response to criticisms are designed to deal only with cases of disappearances prior to 2003, or missing persons to the occupation of ISIS. Disappearances caused and perpetrated by the government and militias are thus of course excluded and are not routinely investigated at all.

The Committee has, through previous communications with the government of Iraq, also highlighted the fundamental failure to incorporate the full offence of enforced disappearances into domestic legislation.

In November 2022, the Committee visited Iraq to identify further means to tackle enforced disappearances in the country. During this time, the Committee visited Anbar, Baghdad, Erbil, and Mosul to meet victims, CSOs, international organizations, and national and human rights institutions. During the visit, the CED delegation received information about hundreds of cases of enforced disappearances from different governorates.

Following the visit, and pending its final visit report, the delegation urged Iraq to establish a centralized and interconnected register to enable reliable identification of enforced disappearance and effective access to information by all institutions in charge of searching for the disappeared and investigating alleged cases of disappearance. They further highlighted the need to address the daily suffering of victims.

Until very recently, when it comes to Iraq, the United Nations has historically failed to ensure the state upholds the basic principles and responsibilities under the Charter. The UN has neglected Iraq, a founding member of the UN, and has failed to address the destruction and suffering of its people. Although steps have recently been taken to address violations in Iraq, there is a lot more work to do.

## **Civil Society Organizations Response**

Throughout recent years, Civil Society Organizations have tried to draw the attention of the UN relevant bodies and representatives to the issue of enforced disappearances in Iraq. In part due to all their efforts, violations against Iraqis have intermittently begun to be addressed by UN representatives and the special mandate holders.

Local CSO activists comment that it is common for the armed perpetrators of these crimes to shoot in the air to prevent people from approaching the scene so as not to film, or record license-plate numbers. This demonstrates the wide participation and collaboration amongst different actors who are agents of the state, which requires a degree of cooperation by state-supported bodies in these semi-formal organized programmes of disappearance.

The lack of a truly independent domestic complaints mechanism with teeth is a clear common concern for CSOs across Iraq. The lack of an effective local follow-up process further compounds the harm suffered by family members and related victims. The failure of Iraq to address issues it is aware of with the lack of a local complaints mechanisms further undermines its own claims that it takes this vital issue seriously and that it has fully considered the rights of families and victims.

## **Concluding Remarks**

Much attention is paid by the international community to the atrocities committed by ISIS, but the CSOs in Iraq encounter individuals who are much more widely affected by the abuses carried out by the militia. The acts of the militias are just as detrimental and harmful, if not worse, to the Iraqi civilian population and society. While the international community touts their dedication to pursuing accountability for human rights violations, these words are not heard or felt by the Iraqi people.

Despite our repeated calls for action, the international community and the United Nations have been complacent in their response. They have not taken the Iraqi peoples' plight and suffering seriously, and it is this laxity which has emboldened perpetrators to not only continue the violations, but to escalate them.

The international community should stop turning a deaf ear to Iraq and finally start examining this issue that so evidently and relentlessly persists in front of them.

We repeat our calls to establish an independent, international Commission of Inquiry to investigate all human rights violations in Iraq since the 2003 United States of America invasion, and to hold all perpetrators accountable. We also call on all UN relevant bodies to take all required measures to put an end to these grave human rights violations.

We will continue to pursue justice for the Iraqi people and demand accountability for the violations committed against them.

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Geneva International Centre for Justice (GICJ) Just Atonement Inc., Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussels Tribunal, Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organization for Justice & Democracy in Iraq (OJDI), Iraqi Centre for Human Rights, NGO(s) without consultative status, also share the views expressed in this statement.