



HUMAN RIGHTS Office of the
High Commissioner for Human
Rights



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Report on Human Rights in Iraq: January to June 2012

UNAMI Human Rights Office/OHCHR,
Baghdad

October 2012

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and
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS**

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Recommendations

Recommendations for the Government of Iraq

1. Guarantee the Independence 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. Review the reservations made by Iraq upon accession to international human rights treaties and consider accepting individual complaints procedures;
3. Consider acceding to the Optional Protocol to the Convention Against Torture (CAT) and the Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR), among other instruments;
4. Consider acceding to the 1951 Convention on the Status of Refugees (and the 1967 Protocol); the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness; the Additional Protocol II to the Geneva Conventions 1949; and ratify the Rome Statute of the International Criminal Court.

On-going armed violence

5. 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 with respect to persons detained in relation to terrorist violence – including review and amendment of the counter terrorism law to ensure it complies with Iraq's international obligations;
6. Undertake full investigations of terrorist acts effectively, promptly, thoroughly and impartially and ensure that all efforts are made to ensure that individuals allegedly responsible for carrying out, abetting, aiding and/or ordering such killings are investigated and prosecuted in accordance with domestic and international law;
7. Ensure that adequate protection and assistance, including psychosocial and physical care and relief are provided to all the victims of violence without discrimination.

Detention and rule of law

8. Devote appropriate resources to ensure that the physical conditions of detention and prison facilities conform to international and domestic standards;
9. 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;
10. Ensure compliance by all State officials or their representatives with Iraq's international obligations in relation to preventing torture and other ill-treatment. Ensure that all allegations of torture or other ill-treatment are promptly, properly 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.

Death Penalty

11. Declare a moratorium on the use of the death penalty in accordance with UN General Assembly resolutions 62/149 (2007), 63/168 (2008) and 65/206 (2010) and consider acceding to the Second Optional Protocol to the ICCPR aimed at abolishing the death penalty;
12. 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; and
13. Progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed; including a thorough review of the Penal Code and the Criminal Procedure Code to restrict the application of the death penalty until the punishment is abolished in Iraqi Law.

Women's rights

14. Undertake legal and regulatory reform to abolish 'honour' as a mitigating factor in relation to crimes of violence committed against women;
15. Allocate adequate resources to the social and medical support of women who are victims of domestic or other violence;

16. 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;
17. Ensure appropriate training of all State officials responsible for law enforcement and the administration of justice on gender issues, particularly violence against women, and how to deal appropriately and sensitively with such cases;

Children's rights

18. Ensure the protection and care of all children who are victims of violence;
19. Ensure children charged or convicted of criminal offences are not detained or imprisoned in facilities designed for adults, but in separate facilities specifically designed for their needs and that in all cases alternatives to detention are considered and applied in relation to children;

Rights of ethnic, religious groups and other minorities

20. Undertake legal and institutional reforms to ensure that all laws and policies 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;
21. Undertake revision and reform of the school education 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;
22. Ensure the accountability, according to law, of any person who incites or promotes hatred, acts of violence, or intolerance against persons based on race, colour, sex, language, religion, political or other opinion, national or social origin, birth, or other status;

Freedom of expression and opinion

23. Undertake review of all laws and policies to ensure that they provide and protect the rights of freedom of expression and opinion of all persons, including the repeal of sections of the criminal laws concerning criminal libel;
24. Ensure that all prospective legislation respects and protects the rights of all citizens to receive and to impart information freely and without hindrance, unless restricted for legitimate purposes as permitted by international law; and
25. Ensure journalists are protected against harassment and violence in the performance of their profession and that all allegations of such harassment or violence are promptly investigated and those responsible are held accountable according to law.

Freedom of assembly

26. Ensure the right of citizens to demonstrate peacefully is fully respected by police and other authorities.

Recommendations specific to the KRG

1. Activate the independent Board of Human Rights and ensure its compliance with Paris principles;
2. Undertake legal and institutional reforms to ensure prevention of incidents of domestic violence including rehabilitation, reintegration of survivors and effective prosecution when crimes occur through proper implementation of existing legislations like Law of Combating Domestic Violence and developing new policies and laws when required;
3. Streamline, simplify and implement clear measures for migrant workers and unify all procedures under one office or Ministry. Ensure that information regarding different registration processes, rights and responsibilities of migrant workers is available from their entry to the country in multiple languages; Investigate and take strict action against the companies who fail to register migrant workers within the legal time frame;
4. Release or prosecute any detainees held for lengthy period of time without trial;
5. Restructure and reform the judicial system to ensure that it has proper resources to cope with the workload. Ensure that judges are informed about all new legal developments and do not continue to rely on old laws in the areas where KRG parliament has enacted new legislations;
6. Ensure that courts only rely on Journalism law No 35 /2007 in cases related to journalists.
7. Implement the Regional Action Plan for Human rights by setting up proper implementation and monitoring structures as well as by allocating proper resources;

8. Undertake legal, institutional and budgetary reforms to ensure respect of rights of persons with disabilities and their full inclusion in society.

Executive Summary

This report, covering the period from 1 January to 30 June 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).

Levels of violence in Iraq (outside of the Kurdistan Region) remain high. The number of civilians killed or injured in conflict-related incidents has increased slightly compared with figures for the same period in 2011. UNAMI figures show that during the first six months of 2012 some 1346 civilians were killed¹ and some 3660 civilians were wounded. Most of the violence was concentrated in and around Baghdad, Ninawa and Kirkuk. Violent incidents also occurred in Anbar and Diyala, while the south area around Basra saw very few such incidents. Despite a decline in the overall number of incidents compared with the same period in 2011, the attacks that occurred were often more deadly, with a few such attacks claiming scores of victims. A number of attacks specifically targeted political leaders, government officials and security personnel, while attacks on community and religious leaders, and legal, medical and education professionals continued. Destabilising factors in relation to violence were the shifting relationships between various political blocs, parties and factions, compounded by tribal, ethnic, and religious differences and deterioration in regional security, such as the conflict in Syria, which also contributed to the deterioration of the human rights situation in Iraq.

Civilians continued to suffer from attacks based on their ethnic, religious and other affiliations. There were several large-scale attacks on Shi'a pilgrims and on places of worship. Members of the Christian community were also targeted – as were members of the Turkoman community (particularly around Kirkuk) and members of religious and ethnic minorities, such as Yezidi, Shabaks, Sabian Mandaeans, and Manichaeans. Members of sexual minorities also suffered from killings and widespread social and State sanctioned discrimination – with Iraqi security forces and other State institutions failing to protect them.

The administration of justice and the rule of law were developing but remained weak. Iraqi citizens continued to suffer from arbitrary arrest and detention. UNAMI received credible reports that many detainees have been held without access to lawyers or family members. It is alleged that many have been detained because of political, ethnic or sectarian affiliations. There continued to be reports that detainees were subjected to threats, abuse and mistreatment in order to force confessions which are relied on in court proceedings to found convictions.

Conditions in some prisons and detention facilities remain of serious concern, with many falling below international standards in terms of overcrowding, lack of hygiene, and lack of prisoner rehabilitation programmes. In many detention centres convicted prisoners were not adequately separated from those awaiting trial – and alternatives to detention for prisoners on remand remained under utilised. State prosecutors were often under resourced, contributing to a lack of due diligence in investigating accused persons and in bringing them to trial in a timely manner.

While in some instances trials were conducted professionally, the judicial system continued suffer from under-resourcing – and there continued to be an over-reliance on confessions to found convictions, even when there is information or evidence suggesting that such confessions were obtained through coercion and under duress. There is on-going deep concern about the implementation of the death penalty in Iraq.

Violence perpetrated against women and girls, including so-called 'honour crimes', remains a serious concern. The Iraqi Criminal Code continues to permit 'honour' as a mitigating factor in relation to crimes of violence against women and family members. Low awareness of women's rights and the existence of deep-rooted cultural norms are important factors in perpetuating a culture of violence and other forms of discrimination against women.

¹ Figures were compiled by UNAMI from direct monitoring, media and official government and other sources.

Widespread poverty, high unemployment, economic stagnation, environmental degradation, and lack of basic services continued to affect large sections of the population.

There continued to be reports that journalists and media professionals were subjected to threats, intimidation and other harm in relation to carrying out their duties. UNAMI received reports that at times the authorities used heavy-handed tactics in order to control demonstrations even in circumstances where demonstrators were acting peacefully.

Conditions of IDPs continued to see some improvement with registration permitting better access to basic services. However, Government services were put under strain by the return of increasing numbers of Iraqi citizens from Syria confronted with the growing violence and deterioration in law and order there.

The Iraqi Government made some progress in tackling some of the above issues. The Committee of Experts (CoE) appointed by the Council of Representatives to undertake the process of nomination of commissioners for the Independent High Commission for Human Rights (IHCHR) concluded its work on 9 April 2012, with the ratification by the Council of Representatives of 14 Commissioners (11 permanent and 3 back-up). The work of capacity building and physical establishment of the Commission continues with the support of UNAMI, UNDP, UNOPS and the international community.

Following from the adoption of the National Action Plan on Human Rights by the Government in December 2011 (aimed at implementing the recommendations of the Human Rights Council from the Universal Periodic Review of Iraq concluded in Geneva in February 2010), the Government appointed a cross-sectoral committee composed of relevant Government ministries, civil society and the UN to oversee implementation of the plan.

Some legislative measures were passed during the reporting period, including the counter trafficking law. However some bills before the Council of Representatives continue to be of concern, such as the Bill on “crimes of the internet”, which falls below international legal standards. There are also concerns about the Judiciary law, currently before the Council of Representatives, that nominates experts in Shari’a law to the High Judicial Council, despite the fact that Sharia law is not implemented in Iraqi criminal law.

Iraq ratified the Convention on the Rights of Persons with Disabilities (CRPD) January 2012, but it still had to pass legislation implementing the requirements of the Convention by the end of the reporting period. There was no commitment to ratify the Additional Protocol II of 1977 to the Geneva Conventions of 1949², the Statute of the International Criminal Court (ICC)³, or a range of additional protocols to the existing human rights treaties to which Iraq is a Party.

Kurdistan Region

The overall human rights situation in Kurdistan Region continued to improve, although challenges remain, including concerns over respect for freedom of assembly and freedom of expression and the protection of journalists.

The Kurdistan Region continued to experience almost no levels of 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 (KRG) continued its programme of improving the physical conditions in prisons by the construction, or planned construction, of new detention facilities and the introduction of rehabilitation programmes— although there were some instances of overcrowding noted. Reports of abuse remained low and the KRG showed itself generally to be proactive in investigating allegations of abuse or mistreatment within its facilities. Concerns remain, however, at the treatment of those accused of

² Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, opened for signature on 8 June 1977, 1125 UNTS 3 (“API”); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature on 8 June 1977, 1125 UNTS 609 (“APII”)

³ Rome Statute of the International Criminal Court, A/CONF.183/9, Adoption: 17 July 1998 (entered into force on 01 July 2002)

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.

There are continuing concerns about the freedom of expression in the Kurdistan Region, with some reports of journalists being targeted, and at times threats and intimidation on account of their reporting.

The KRG made some significant legislative reforms, including the adoption of a General Amnesty Law, which allows conversion of the death penalty to life imprisonment if reconciliation is reached in front of a specialized committee with the exception of nine crimes.

Of significance, the KRG launched its 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 within the Kurdistan Region identified as a priority. However, implementation of the Plan remains pending, as does the establishment of the Kurdistan Region Independent Board on Human Rights.

Human Rights in Iraq: January – June 2012

1. Introduction

The respect and protection of human rights in Iraq remained fragile as the country continued its transition from years of conflict and violence to peace and democracy. Violence perpetrated by terrorist organisations and other groups continued to impact civilians, with the death and injury toll remaining at a fairly constant and sustained level, but slightly higher than that reported for the last six months of 2011. Contributing to instability and the violence were a number of factors, including political disputes and discord between the major political parties and blocs, a lack of programmes aimed at supporting reconciliation and enhancing inter-communal relations, and regional developments, such as events in Syria. Violence and its effects continued to impair access to basic goods and services by many Iraqis. The protection and care of all persons who were the direct and indirect victims of violence remained of concern.

Other issues were the physical conditions in many prisons and detention facilities and inconsistent respect for due process and fair trial standards – and UNAMI continued to receive reports alleging physical abuse and, at many times, torture of detainees. Other issues of concern were the inconsistent respect and protection of the rights of women, who continued to be the victims of honour crimes and other forms of violence and who were subjected to other forms of discrimination, which impaired their enjoyment of a range of political, social and economic rights. There were also concerns at gaps in the protection of children subjected to violence in all its forms, and the impairment of their access to education, health care and other services; continuing discrimination suffered by persons with disabilities hindering their full and equal participation in the economic, social and political life of the country; and violence and discrimination suffered by members of Iraq's diverse religious, ethnic and cultural and sexual minorities, which impaired their full and equal participation in the economic, social and political life of Iraq. There continued to be concerns in relation to the full respect and protection of the rights of freedom of expression, opinion, and assembly – in particular, UNAMI received a number of complaints concerning harassment and violence directed at journalists and media professionals in the performance of their professions, and in relation to a number of pieces of legislation currently before the Parliament, such as the bill on 'crimes of the internet', that do not conform to international standards. In addition, many ordinary Iraqis continued to face unequal access to basic, life giving services, such as shelter, water, and electricity – while many facing difficulties accessing education, health care, and sustainable economic opportunities. The protection of the physical environment and the proper utilisation of natural resources remain critical issues that the Government needs to tackle.

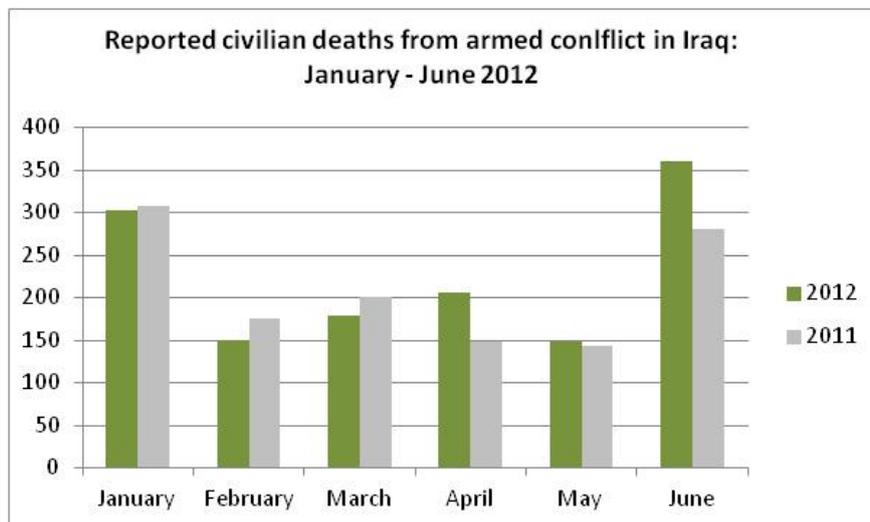
The Government of Iraq (GoI) acknowledged many of these challenges facing the country – and remained committed to undertaking initiatives aimed at addressing a number of the significant gaps in the respect and protection of human rights in Iraq. Of paramount importance to the Government were programmes aimed at establishing a culture of respect for human rights, built on tolerance, and the capacity building of strong, accountable national institutions that will uphold the rule of law and protect the rights of all Iraq's people. In relation to this there were some significant advances, such as the formal appointment by the Council of Representatives of 14 commissioners (11 full-time and 3 back up commissioners) to serve on the Independent High Commission for Human Rights in Iraq (IHCHR) – which will be the key nationally owned institution responsible for the promotion and protection of human rights in Iraq - and the establishment of a cross-sectoral committee to oversee the implementation of the National Action Plan on Human Rights, adopted by the Government in December 2011.

Significant challenges remain, however, and UNAMI and the United Nations Country Team (UNCT) are working in partnership with the GoI and with civil society to identify issues and to develop initiatives aimed

at creating a culture wherein human rights are respected and at enhancing the promotion and protection of the rights of all Iraq's people, without discrimination.

2. Armed Conflict and Civilians

Violence continued to affect the daily lives of men, women and children living in Iraq. Information gathered by UNAMI indicates that while the number of attacks during the reporting period was lower than that of



the same period in 2011, the death toll was slightly higher. The primary reason was that during the first six months of 2012, Iraq suffered a series of 'complex' attacks, each leaving scores of civilians killed and many others injured.

According to official government figures, 1398 civilians were killed in conflict related incidents during the reporting period. Of these, 70 were children, 116 were women and 1212 were men. Furthermore, government

figures indicate that 5495 civilians were wounded, including 432 children, 567 women, and 4496 men. Figures from UNAMI's direct monitoring indicate that at least 1346 civilians were killed and 3660 were injured in armed violence in Iraq.⁴ This compares to the same period in 2011, when UNAMI recorded a total of 1256 civilian deaths. The figures indicate that the decline in violence and impact on civilians experienced since the peak of violence in 2007 may be levelling off, and that the country may continue to suffer from a sustained level of violence and a corresponding impact on civilians for the near future.

UNAMI data shows that violence was most concentrated in Baghdad and its surrounding areas, and in the Disputed Internal Boundaries (DIBs) areas around Mosul and Kirkuk. The western Governorate of Anbar and the southern Governorates around Basra saw far fewer attacks. By contrast, the Kurdistan Region remained largely free of violence.

Insurgents and armed non-State actors continue to favour asymmetric methods that result in indiscriminate loss of life and a heavy toll in terms of civilian casualties. On occasion, civilians and civilian infrastructure, including markets, places of worship, schools and public spaces were specifically targeted. UNAMI recorded at least 218 incidents involving the use of improvised explosive devices (IEDs) and vehicle-borne improvised explosive devices (VBIEDs). Although the perpetrators of such attacks are often unknown, the frequency of such attacks and the victims that result, indicate that a number of insurgent and terrorist 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. Motivations for attacks remain complex – including political, ethnic, and religious. Some attacks appear to have been in response to political developments. Of concern was the announcement by a number of insurgent groups in March 2012 that they were recommencing their programme of hostilities – in particular Al-Qaeda in Iraq and the Islamic State of Iraq. Events in neighbouring countries, particularly in Syria, also had a destabilising effect on patterns of violence, with information suggesting that fighters and insurgents may be moving back and forth across the border.

⁴ 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.

Examples of violence included the following. On 5 January at least 30 civilians were killed by an IED attached to a suicide bomber targeting Shi'a pilgrims at Bat'hass near Nasariyah. On the same day, in the mainly Shi'a Sadr City area of Baghdad, two IEDs killed at least nine civilians and injured 35 others. Also in Baghdad, on the same day, two VBIEDs were detonated in the Khadimiyyah area leaving 15 dead and 31 injured. On 14 January 67 civilians were killed and 137 injured when a suicide bomber detonated himself in an attack targeting Shi'a pilgrims in Zubayr, south of Basra. On 24 January two IEDs were detonated in the Sadr City area of Baghdad targeting a busy square and market. Six people were killed and 35 injured in this attack. On 24 January a VBIED was detonated near a school compound in Shoalah, northwest of Baghdad, killing two civilians and injuring 18. On 27 January a suicide car bomber detonated himself in the Zafaraniyah area of Baghdad, killing at least 32 persons and injuring 71. A series of attacks 23 February in Baghdad, Baqubah, Hilla, Mosul, Kirkuk and elsewhere left at least 55 people dead and over 200 injured. In the town of Musayyib, south of Baghdad, a car bomb was detonated in the vicinity of an elementary school. On 7 March, 23 people were killed and 27 injured when a parked car bomb was detonated in the Al-Kifah area of Tal Afar, 60km west of Mosul. As police and civilians gathered at the scene a second suicide bomber detonated himself. On 4 June, a suicide attack on a Shi'a religious office in Baghdad left 20 civilians dead and 110 injured. Al Qaeda claimed responsibility for this attack. On 10, 13 and 16 June, during the celebration of the anniversary of Imam Al-Kadhum, Baghdad witnessed a series of indiscriminate attacks against Shi'a pilgrims, civilians and security personnel killing at least 77 people and injuring hundreds.

Iraqi police were frequently targeted in violent attacks. For example, five policemen were killed on 17 January when unidentified gunmen launched an attack on a police checkpoint in Rubtah, in Anbar province. On the same day, three policemen were killed and three others injured when an IED was detonated near a police checkpoint in the Shuhada area of Mosul. On 19 February, a suicide vehicle bomb attacked police recruits at a training college in Rusafa near Baghdad. 15 policemen were killed and 22 injured in the attack. On 5 March, a small arms attack on a police emergency headquarters in Haditha left 28 policemen dead.

Assassinations claimed the lives of at least 25 civilians during the reporting period, according to information gathered by UNAMI. This figure is slightly lower than for the same period in 2011. 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 are killed or wounded in these attacks. On 7 February, the ex-head of the women's prison in Kadhimiya was assassinated by unknown armed men in Durra district of southern Baghdad. Her driver was wounded in the attack. At the time of her death she was a lecturer at the (Future) Academy under the Iraqi Reform Directorate/MoJ in Baghdad International Airport training prisons wardens and officers. Motives behind these attacks are often unclear: it is possible that some victims were targeted for personal or criminal motives, but there may also have been political, ethnic or sectarian motivations behind many such killings.

Attacks such as those outlined above constitute serious violations of Iraqi criminal law and of applicable international humanitarian law and international 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 effects of violence.

The care of all persons who are the victims of violence remains of particular concern to the GoI. During the first half of 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. The MoHR also conducted 146 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 7162 cases.

In June 2012, UNAMI was informed that the Government, under the auspices of the MoHR, intends to hold a conference bringing together representatives of relevant government, judicial, police and civil society

organisations to discuss ways to enhance the protection of the victims of violence in Iraq. It is planned that this conference will take place in September 2012.⁵

3. Detention and Rule of Law

The criminal justice system in Iraq, and in particular the conditions of many detention facilities, has been problematic for decades. UNAMI receives frequent reports from persons in detention, their relatives and associates alleging incidents of arbitrary arrest, denial of due process, and abuse, torture and mistreatment. Suspects are routinely arrested and detained without warrants; prisons are often overcrowded and unsanitary; detainees are frequently held for prolonged periods in pre-trial detention, often without access to legal counsel; and there were many reports of the failure of the authorities to release detainees as ordered by the courts at the conclusion of judicial investigations or trials, or after sentences have been served.

While problems with law enforcement and administration of justice appear chronic, UNAMI is not convinced that such problems are systematic. Iraq does not have a history of respect for rule of law, and 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 the administration of justice are respected. In conversations with UNAMI, the GoI has recognised that there are significant challenges facing the administration of justice in Iraq – and it has instituted a number of reforms and initiatives aimed at addressing some of the chronic problems associated with prisons and places of detention – although much more remains to be done.

3.1. Numbers in detention

According to the MoHR and MoJ, there are 37,014 persons in detention in Iraq as at 30 June 2012. Of these 20,996 have been convicted, and 16,018 are awaiting trial. Also, of this number there are 597 women who are convicted prisoners, and 537 who are awaiting trial. There are 1700 juveniles being held in juvenile detention facilities; 1,271 have been convicted and 429 are in pre-trial detention.

3.2. Respect for due process

UNAMI continues to receive regular reports alleging inconsistent adherence to due process requirements for persons in detention. Suspects are reportedly arrested without being informed of the charges against them, sometimes without a warrant. Some detainees alleged to UNAMI that the real motivation for their arrest was their failure to pay bribes to security officials or for sectarian or political reasons.

Once detained, suspects were often held in detention while awaiting trial for longer than is legally permissible.⁶ UNAMI frequently received complaints from detainees that they suffered from a lack of

⁵ The conference on the victims of terrorism was in fact held on 8-9 October 2012 in Baghdad. The conference was held under the auspices of H.E. Prime Minister Nouri Al-Maliki and H.E. Minister of Human Rights Al-Sudaani and was attended by a number of representatives from relevant Ministries, the Council of Representatives, the judiciary, NGOs and the international community. The same conference was also held in a number of governorates including Thiqr, Karbala and Najaf. The conference will be discussed in the forthcoming UNAMI Report on Human Rights for July – December 2012.

⁶ According to Article 19, paragraph 13 of the Iraqi Criminal procedure Code, 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 Iraqi 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

regular access to their legal counsels.⁷ Some detainees alleged that even after acquittal by the courts, they were required to pay substantial ‘fines’ to prison or police officials to secure their release. Prolonged periods in pre-trial detention are common across Iraq.⁸ During a routine visit to a detention centre in Kirkuk in March, one detainee told UNAMI that he had been detained for four and a half years under terrorism charges without trial. On 11 June, delays in bringing detainees before the courts were among the issues that sparked a protest by detainees in Al Taji prison. A number of detainees claimed that they had spent five years in detention without being brought to trial. Some detainees alleged that trial dates could be ‘purchased’ by paying bribes of up to 15 million Iraqi dinars (USD13,000). The protest ended after detainees received guarantees from the prison management that their grievances would be considered.⁹

UNAMI received a number of credible reports about detainees alleging that the authorities had refused to release them despite the conclusion of their cases and orders from the courts that they should be released. In many such cases it was alleged that payments were demanded by prison officials from the detainees’ families in order to secure their release. UNAMI’s findings were echoed by the Parliamentary Integrity Committee, which raised the issue in April, saying that it was aware of cases where the release of inmates found not guilty was delayed until prison authorities received payment. Iraqi media reported in January that some detainees were forced to pay bribes of up to ten thousand US dollars in order to leave jail after being found not guilty.¹⁰ These allegations were denied by a spokesperson from the Ministry of Justice.¹¹

UNAMI continues to receive credible allegations that many persons have been detained incommunicado or in undisclosed places of detention without access to their families, lawyers or judicial investigators. This problem appears to be particularly acute in Ninewa Governorate, where family members of individuals usually detained by the Iraqi army have informed UNAMI that they were unable to find out where their family members were held. Also in Ninewa, families of persons detained by the Iraqi army have told UNAMI that their relatives were denied access to legal representation. In February, the head of the Ninewa Bar Association told UNAMI of five cases of lawyers who were detained by the Iraqi army because they had attempted to represent individuals detained by the military.

Due to the unique dual administration in parts of Ninewa Governorate, Kurdistan Region Asayish and Peshmerga operate along with the Iraqi Police and the Iraqi army. Although Asayish have no authority to detain civilians in Nineveh, they are a de facto authority in some places and are known at times to carry out arrests. 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.¹²

Throughout the reporting period, UNAMI recorded mass arrests of suspected members of armed opposition groups. For example, on 2 January, 15 individuals were arrested near Karbala. Two days later, a further 37 people were arrested. On 6 March, 35 suspected members of Al Qaeda were arrested in Himrin,

⁷ According to the MoHR many cases where detainees were denied access to legal counsel or visits by family members were largely confined to facilities run by the Ministry of Interior and Ministry of Defence.

⁸ The Ministry of Human Rights has been active in monitoring cases of prolonged pre-Trial detention and is working with the Ministry of Justice and the High Judicial Council to find solutions to the problem.

⁹ According to the Ministry for Human Rights, part of the problem is Article 50 of the Iraqi Criminal Procedure Code, which permits investigation of serious offences relating to terrorism and organized crime to be referred by the presiding judge to be investigated by officers from the Ministry of Interior and Ministry of Defence. The MOHR expresses the view that to ensure the objectivity of investigations and respect for due process, such investigations should be undertaken by judicial officers directly who are properly educated and experienced in forensic investigation.

¹⁰ Tareeq Al-Sha’ab, “Some jails are run by prisoners”, 16 January 2012.

¹¹ The Ministry of Human Rights informed UNAMI that it investigates such claims if brought to their attention. It said that in a few cases there were still outstanding charges against specific individuals which explained why they were held on remand until the outstanding cases are finalised

¹² The MoHR confirmed to UNAMI that in some visits to detention centres in the Kurdistan Region it 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 are alleged to have been perpetrated. The MoHR stated that it is negotiating the issue with the High Judicial Council of the Kurdistan Region.

near Baqubah. On 10 April, 57 people were arrested during raids in Babylon Governorate. It is difficult to follow up on cases of individuals arrested under Iraq's anti-terrorism law. Family members have told UNAMI that on occasion they have not been informed of the place of detention, and detainees who have been released often allege that they were denied access to lawyers while in detention.

3.3. Standards of detention

Outside of the Kurdistan Region, UNAMI regrets that its access to places of detention was restricted by the security situation in the country, and in the Baghdad area in particular by the absence of a comprehensive agreement between UNAMI and the Government of Iraq to conduct unrestricted visits to all detention facilities, guarantees concerning the safety and security of detainees interviewed by UNAMI, and a commitment of due diligence by the Government in following up matters identified as a result of such visits. In late June, a comprehensive agreement was reached between the MoJ and UNAMI, and between the MoHR and UNAMI, resolving all these issues, and UNAMI plans to resume prison visits in the Baghdad Governorate in the latter half of this year.

In UNAMI's view, many of the problems faced by Iraq's detention facilities and prisons are due in part to the fact that Iraqi prisons and detention centres are run by a range of Ministries and security agencies, with little coordination, oversight or accountability. Responsibility is split between the Ministries of Justice, Interior, Defence and Labour and Social Affairs while security for prisons and detentions centres is often in the hands of police or military units. The Government of Iraq has given assurances that more uniform oversight of detention facilities will be introduced, but this has yet to be implemented.¹³

Where UNAMI has conducted monitoring visits of prisons and places of detention, the physical conditions were found frequently to fall short of internationally accepted minimum standards in terms of overcrowding, separation of juveniles from adults, separation of pre-trial detainees from convicted prisoners, adequate food, ventilation, sanitation and provision of health care.¹⁴

In January, UNAMI received reliable reports of two inmates who died in separate incidents in Al Kerkh prison in Baghdad due to a lack of adequate healthcare provision. UNAMI has not been able to independently verify these allegations. According to an Iraqi NGO, on 6 June another two detainees died in Al Kerkh due to poor conditions inside the prison. According to the NGO, inmates are given just one and a half litres of drinking water daily. It was reported that some detainees were suffering from scabies and tuberculosis and that they were not receiving adequate medical care. In relation to these claims, the MoHR denied that two prisoners had died in Al Kerkh, but confirmed that one prisoner, Ahmed Abdulasool Jabar Radhi, had died of a heart attack on 6 June 2012, and that the Ministry had prepared a report concerning the prisoner's death. The MoHR further noted that an inquest into the man's death was still ongoing. The MoHR did confirm that there were problems with the supply of electricity to the prison, which they had monitored from 19- 26 June. However, the prison's management fixed the problem by contacting the Ministry of Electricity, which installed generators. In relation to the problem of water supply to the prison, the MoHR confirmed that the prison's management resolved the issue by supplementing the main water supply with water brought in by tankers. Additionally, the prison management liaised with the Iraqi Reform Directorate, which transferred four storage water tanks (each with 100,000L capacity) from Al Baladiyat prison. These tanks were connected direct to the prisoners' cells on 30 June. In addition, the company contracted to provide food to the prison also ensures each prisoner is provided with 1.5L of bottled drinking water per day. The MoHR stated that they had recently inspected the prison, and there are now 8 yards allocated to the prisoners for sanitation, sport and recreation – and each cell has been fitted out with coolers and windows to ensure the circulation of fresh air. The MoHR said that the prison had no recorded cases of scabies or tuberculosis.

¹³ 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 Ministry of Justice.

¹⁴ 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, but according to MoHR physical standards of such facilities remain poor.

In March, one detainee reportedly died in the Kirkuk central prison due to a lack of medical assistance. During a visit to this prison, UNAMI observed that there was no available healthcare for inmates during the night, and there was a lack of medicines in the prison clinic. One inmate told UNAMI that prison authorities did not allow essential medicines to be brought by his family.

Overcrowding is an issue common to detention facilities across Iraq.¹⁵ For example, during a regular visit to the Chamchamal federal prison located in the Kurdistan Region in February, UNAMI noted that 2474 detainees were being held in the facility, designed to house 2070 inmates. In addition to overcrowding, the deputy director of the prison told UNAMI that the facility suffers from a lack of recreational and educational facilities. During regular visits to detention facilities in Basra, UNAMI observed severe overcrowding at a police detention facility at Al Qurna, where 48 adult detainees were held in a facility designed for 20. Police officers told UNAMI that they were unable to transfer detainees to Basra central prison due to lack of space. In the main detention centre in Kirkuk, UNAMI observed 29 females – including four minors – detained in a cell designed to hold 18 women.

Following visits by the Parliamentary Committee on Women, Family and Childhood to detention centres in Salahiddin, Kirkuk, Ninewa and Karbala, the chairperson of the committee, Ms Intisar Al Jbouri, complained at a press conference on 19 March about the “many negative aspects” of conditions in the detention facilities, including the widespread non implementation of court decisions quickly and efficiently, the poor conditions of many of the detention centres, and the lack of available healthcare.¹⁶ In the same vein, the Parliamentary Integrity Committee revealed on 14 April that staff in some prisons were failing to implement court orders for the release of persons who had been found not guilty or who had served their sentences, unless payments were made by the detainees’ relatives.

Security of prisons remained problematic. UNAMI received several reports of prisoner escapes and riots in a number of detention facilities. In March, Ministry of Justice officials announced that they had thwarted an attempted escape of inmates from Al Rusafa prison in Baghdad. On 11 April the spokesman of the Supreme Judicial Council in Dhi Qar confirmed that the management of the Tasfirat run central prison in Nasiriyah foiled an attempt to free three convicts from Ninewa Governorate who were on death row following conviction under article 406 of the Iraqi Penal Code. A person had come to the prison and submitted forged letters from the Court of Appeals ordering the release of the three prisoners. On 14 April, prison guards in the Tasfirat run central prison in Tikrit thwarted an attempt by prisoners to escape via tunnels they had dug. The prison had been temporarily closed in 2011 following riots.

On 5 June, riots broke out in Baladiyat and Rusafa prisons in Baghdad, leaving a dozen prisoners injured. According to the MoJ, prisoners rioted following a decision to move detainees from the two prisons to another facility. This move, according to MoJ officials, was part of a plan to shut down all prisons that do not meet human rights standards. The riots were quelled by joint forces from the Anti-Terrorism Force, SWAT and the Division 11, which stormed the prison to regain control. The MoJ denied that there were any deaths among the prisoners resulting from the operation.

On 11 June, a number of prisoners in Al Taji prison started a strike to complain of ill-treatment and delays in processing their judicial procedures. Many of the inmates claimed that they have spent as long as five years without being informed of their trial date, contrary to guarantees under Iraqi law and international standards. Some inmates alleged that in order to obtain a trial date, bribes had to be paid of up to fifteen million Iraqi Dinars. Al Taji prison which holds more than 4000 prisoners, most of who are Sunni, has seen recently an influx of detainees from other governorates as well as detainees transferred from Al Rusafa prison as a part of the MoJ plan to close that facility. The resulting overcrowding has fuelled tensions within

¹⁵ The Ministry of Human Rights 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 “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.”

¹⁶ NINA, “Parliamentary Women’s Committee prepares report on detainees’ conditions”, 19 March 2012. Available online < http://www.ninanews.com/english/News_Details.asp?ar95_VQ=FKIDHJ>

Al Taji prison. The prisoners' strike ended after five days when the prison's management gave guarantees to address the prisoners' complaints.

The Ministry of Justice has embarked on a process of reform of the detention facilities and prisons under its authority. The plan 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. The plan also includes the resorting of pre-trial detainees and convicted prisoners to ensure their separation and to group them on the basis of the severity of the crimes they are alleged to have committed or for which they have been convicted. For instance, as part of the plan Al Baladiyah detention facility has been closed and there are plans to refurbish it to serve it as a women's detention centre. The Baghdad Central Prison (Abu Ghraib) along with three other facilities have been, or are in the process of refurbishment or reconstruction, and have been earmarked to hold persons charged with or convicted for crimes related to terrorism.

3.4. Allegations of ill treatment

While there is a strong legal framework in Iraq prohibiting the use of torture,¹⁷ UNAMI continues to receive credible reports that mistreatment, abuse, and at times torture of detainees is widespread. Allegations received by UNAMI relate to abuse that takes place at the time of arrest, during pre-trial detention and following conviction.

In January, UNAMI received allegations of abuse between prisoners, possibly along sectarian lines, held at a detention centre near Baghdad airport. Despite repeated attempts to contact prison authorities, UNAMI was unable to confirm the allegations. UNAMI also received allegations of the mistreatment of suspects held in relation to the trial of Iraq's former Vice President, Tariq Al Hashemi (see below).

In January in Kirkuk, UNAMI received a report from one man who claimed he had been severely beaten and tortured during detention after his arrest by Asayish. Also in Kirkuk in March, UNAMI received an allegation of mistreatment from a man who had been detained along with 15 other police and prison guards in a case relating to a prison escape. A number of those detained alleged to UNAMI that they were mistreated by officials from the Ministry of Interior (MoI) during the investigation of the incident prior to their release.

Through accounts from former detainees held in counter terrorism facilities in Ninewa Governorate run by Tasfirat, UNAMI has documented allegations of mistreatment of detainees by prison guards. Also in Ninewa, UNAMI received credible reports of mistreatment in order to extract confessions from detainees held in informal detention centres run by the Iraqi army. In Tikrit, during a regular visit to a newly built prison, a number of detainees alleged to UNAMI they were mistreated by police during the investigation phase of their cases.

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, officials from the MoJ acknowledged that mistreatment may occur in detention facilities run by the MoI and the Ministry of Defence (MoD). Iraq also suffers from a 'culture of abuse', where there is little public sympathy for persons accused of criminal acts and where there is a long history of impunity for those who perpetrate abuse. Another factor is that judicial procedures are heavily dependent on confessions from suspects, despite the fact that the law prohibits the admittance of confessions obtained through coercion as evidence in trials.¹⁸

¹⁷ Article 37 of the Iraqi Constitution, Article 37 prohibits any form of coercion or torture. Section 12 of the CPA Memorandum Number 2 (2003) prohibits the use of restraints, such as handcuffs, irons and strait jackets as punishment. Article 127 of ICPC 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 of the ICPC criminalises any public official who tortures or orders torture, or threatens torture, of a person accused of a criminal act, including witnesses, with the aim of compelling a confession.

¹⁸ Article 418, Iraqi Criminal Procedure Code

Regardless of the underlying causes, UNAMI calls on the Government of Iraq 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.

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 first half of 2012, inspection teams from the MoHR conducted 183 visits to prisons and detention centers in all Governorates to monitor and report on the humanitarian, health and legal conditions of the prisoners and in order to document alleged violations. According to the MoHR most cases alleging ill-treatment and torture took place during the investigation, pre-trial phase of proceedings and concerned facilities under the authority of the Ministry of Interior and Ministry of Defence. 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 the protection of the victims and to ensure that those who perpetrate such acts are held accountable according to law.

In June, UNAMI reached agreement with the Minister of Justice on a framework for the conduct of prison monitoring visits by UNAMI human rights staff. 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 also reached agreement with the Minister of Human Rights on the conduct of joint monitoring visits to prisons and places of detention within Iraq in addition to UNAMI monitoring mentioned above. It is planned that visits will recommence in September 2012.

3.5. Fair trial standards

UNAMI remains concerned, however, at the common practice of relying on confessions to found convictions, which were often obtained before the accused was brought to court and are frequently claimed to have been made under duress. UNAMI has particular concerns as to the fairness of such trials, in particular where confessions are made available to the public. Such was the case on 3 January, when the MoI displayed to the media a video it claimed was the confession made by the leader of the Rijal Al-Naqshbandi group, allegedly responsible for more than 300 armed attacks against security forces and civilians across Iraq.¹⁹ In UNAMI's view such public airing of evidence before or during trial proceedings violate due process and fair trial standards, in particular prejudicing the presumption of innocence.

In December 2011 Iraqi authorities issued an arrest warrant for the Vice President Tarek Al Hashemi signed by five judges. Under the warrant Al Hashemi was charged with over 300 counts under the anti-terrorism legislation. In January, the Ministry of Interior broadcast on national television alleged confessions of three body guards of the Vice President, who declared that they had carried out bombings and other illegal activities based on orders received from Al Hashemi and his son in law, Mr Ahmed Qahtan, who was also Al Hashemi's private secretary. Al Hashemi denies the charges, reiterating on several occasions that all allegations against him are politically motivated. Subsequent to the issuing of the arrest warrant, Al Hashemi fled from Baghdad to the Kurdistan Region, from where he left the country.

The Supreme Judicial Council announced that there are 86 suspects relating to the 300 charges, although it is not clear how many have been arrested. Media reported in January that 16 bodyguards had been arrested in relation to the case.²⁰ Lawyers of some of the suspects told UNAMI that 13 people have been acquitted and released due to a lack of evidence.

¹⁹ The MoHR has informed UNAMI that it has voiced concern to the High Judicial Council concerning the public broadcast of confessions and has requested that it instruct the security services to refrain from doing so.

²⁰ Al Arabiya, "Iraq detains 16 bodyguards of fugitive vice president", 31 January 2012. Available online at < <http://www.alarabiya.net/articles/2012/01/31/191744.html>>.

The trial at time of writing before the Central Criminal Court in Baghdad, is only concerned with three charges of murder brought against two defendants, Al Hashemi and Ahmed Qahtan. The first hearing was held in on 15 May. The two accused were absent. Subsequent hearings, also *in absentia*, were held on 20 May and 31 May.

UNAMI has noted some reservations with regards to the conduct of this high profile trial. Confessions of Al Hashemi's bodyguards broadcast on national television at the outset of the trial may have compromised the independence of the judges and investigators, and threatened to undermine the presumption of innocence. This constitutes a violation of Iraqi law²¹ and international human rights standards.²²

While trials *in absentia* in exceptional circumstances are in accordance with international norms, safe guards 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 did not attend court for the second or third sessions. The court then appointed a lawyer to represent him. However, the court designated lawyer failed to participate in the cross-examination of the prosecution witnesses or to participate actively in the trial proceedings. Defence lawyers have also told UNAMI that they have faced difficulties in getting access to review the files from the investigation phase of the case, thus prejudicing the preparation of the defence case.

UNAMI has concerns as to the credibility of some of the witness statements. The prosecution has relied on witnesses who themselves are detained and under investigation for alleged involvement in other crimes linked to Al Hashemi and Qahtan. The interrogation of witnesses under such circumstances without the presence of legal counsel casts doubt on the credibility of the testimony and the legality of the process.

On 15 March one of Al Hashemi's bodyguards died while in police custody. Defence lawyers allege that he died as a result of torture. These allegations have been denied by the Supreme Judicial Council, which says that a preliminary medical examination attributed the death to severe diarrhoea, low blood pressure and kidney failure. Al Hashemi later alleged that two more bodyguards had died following torture while in detention.²³

UNAMI continues to monitor the case.

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 of missing persons. A list of 241 missing persons was provided by the committee to the Kurdish Asayish. The Kurdish Asayish continues to deny having any detainees in Kurdistan Region and have said they are willing to facilitate visits to any of the official prisons including the so called "secret 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 conducts regular visits to detention centres run by the Kurdistan Regional Government (KRG). Two federal detention facilities, however, denied access to UN human rights staff. In general, the condition of detention facilities run by the Kurdistan Region Ministry of Labour and Social Affairs (KRG-MoLSA) is satisfactory, with the exception of Al Salam prison in Sulaimaniya and Al Mahatta prison in Erbil, which suffer from overcrowding. Replacement prisons are currently being constructed.

²¹ Iraqi Penal Code, article 235 prohibits the publication of anything that might lead to influence judges and witnesses.

²² International Covenant on Civil and Political Rights, article 14. See also General Comment number 13: "No guilt can be presumed until the charge has been proved beyond reasonable doubt. Further, the presumption of innocence implies a right to be treated in accordance with this principle. It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial."

²³ BBC News, "Iraq Vice-President Hashemi's guards 'die in custody'", 11 April 2012. Available online < <http://www.bbc.co.uk/news/world-middle-east-17675666>>. The MoHR in a letter to UNAMI said that it is aware of the death of only one body-guard and has not received any information concerning the alleged death of any others.

Conditions of detention centres run by Asayish are also satisfactory, with the exception of the Gishti detention facility in Erbil, which is overcrowded and lacks ventilation. The relevant authorities have informed UNAMI that they are working to address these issues.

As in the rest of Iraq, UNAMI is concerned by extended periods of pre-trial detention, particularly in facilities run by the Asayish. UNAMI has documented cases where suspects have been held for up to ten years in pre-trial detention. Such extreme cases are rare, but detainees regularly spend longer than is legally permitted in pre-trial detention. For example, there is currently only one investigative judge for Asayish in Erbil, where at any given time there are over 100 cases. UNAMI also remains concerned at the lack of cooperation between the KRG and the Federal Government in transferring prisoners and pre-trial detainees for trial in the localities where crimes were committed. KRG authorities have told UNAMI that delays to bringing suspects to trial are caused by a shortage of investigative judges, but that it has recently raised the number of judges which has caused a decrease in the numbers of persons subjected to prolonged periods of detention – particularly those charged under the Anti-Terrorism law.

In a highly publicised case, the Mayor of Sulaimaniya allegedly committed suicide in the Asayish Gishti detention facility in Sulaimaniya on 14 April. The man had been arrested on charges of forging documents and misappropriating funds in relation to a land scam. The family of the Mayor allege that he had been threatened, mistreated and psychologically tortured while in detention. UNAMI interviewed another person detained in relation to the same case, who also alleged that he had been mistreated. On the day the incident occurred, the Kurdistan Region government established a committee to investigate it, which concluded that the death was suicide.

UNAMI has noted delays to trial procedures due to poor cooperation between Asayish and criminal courts, which has resulted in the accused not being produced to the court on the date of the trial. In one case in Erbil, a trial was postponed seven times as Asayish failed to deliver the defendant to the court. UNAMI has also noted concerns in court interpretation facilities for witnesses and accused persons who are not fluent in Kurdish. Courts are often not equipped with appropriate numbers of interpreters and there is a lack of clarity as to the role of interpreters. As in the rest of Iraq, confessions obtained during the investigation phase are treated as sufficient evidence for a conviction for many crimes, calling into the question the fairness of such trials. In some rural areas of the Kurdistan Region, UNAMI has observed trials in which judges are either not aware of legislative developments, or are not trained to apply them. In such cases judges have tended to use old Iraqi laws, which in some cases do not comply with international standards.

4. Death Penalty

UNAMI continues to have serious reservations about the integrity of the criminal justice system in Iraq, including 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 first six months of the year, Iraq executed 70 persons, including two females. This is sharply higher than in previous years: In to whole of 2011, 67 executions were carried out; 18 in 2010.

On 18 and 19 January, the MoJ announced the execution of 34 individuals sentenced to death for various crimes, mostly under anti-terrorism laws. The MoJ announced the execution of further 17 male persons on 1 February. Most of individuals were charged under anti-terrorism law, while others were convicted for murder, kidnapping and burglary. A MoJ official confirmed that on 7 February 14 convicts were executed, including Mr. Abu Talha, an alleged leader of the Al Qaeda affiliated group, the Islamic State of Iraq. This group was allegedly responsible for bombings and attacks in Baghdad that have killed more than 500 people since October 2009. On 20 February, the MoJ announced the execution of four persons. The executed persons were convicted under article 4 of the Counter Terrorism Law and article 406 (Murder) of the Iraqi Penal Code. On 7 June, the MoJ announced the execution of Saddam Hussein's personal secretary and chief bodyguard, Abed Hamid Hmoud Al Tikriti. Al Tikriti was hanged for crimes of genocide relating to the suppression of Shi'a Muslims during the 1980s.

The Presidency Council approved at least a further 67 death sentences, including: on 19 January that of 11 individuals convicted of involvement in the 'Bloody Wednesday' attacks targeting government buildings on 19 August 2009 in which 112 people were killed and 575 injured; on 6 February that of 23 individuals; on 19 February that of 33 individuals.

The GoI maintains that it only executes individuals who have committed terrorist acts or other serious crimes against Iraqi civilians. 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) and 65/205 (2010).

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 first six months of 2012.

UNAMI has been actively advocating with authorities in the Kurdistan Region for an official moratorium, and facilitated a draft law aimed at the abolition of the death penalty. Main political parties expressed support for the law, although the draft was met with resistance from some religious leaders and scholars from Islamic and Christian backgrounds. The draft has not been tabled in Parliament.

Concurrently, UNAMI reviewed and provided comments on an amnesty law that includes a provision commuting death penalty sentences - already handed down by courts in the Kurdistan Region and pending execution - to life imprisonment when reconciliation is reached in front of a specialized committee. However nine crimes are excluded from it. The General Amnesty Law was passed on 14 June 2012 after consultations and amendments and its implementation is on-going (see section on legislative developments).

5. Mass Graves

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, as well as years of armed conflict.²⁴ According to the Iraqi MoHR, the number of persons recorded as missing between 2003 and 2010 totals 137,520.

Fourteen mass graves were discovered in the first half of 2012 located in a number of provinces, including Al Muthanna, Salahiddin, Diwaniya, Al Najaf and Al Basra. The grave discovered in Hamreen in Salahiddin on 26 February is believed to be the largest, containing at least 158 bodies.

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 51 such visits to examine suspected mass graves sites in all Governorates. The Ministry's team commenced work on three graves, one located in Shohdaa Al Salaam in Al Najaf, and two located at Al Khaneaab and Um al Broom in Al Basra Governorate. The Ministry, in co-ordination with the Kurdistan Regional Government, also undertook field missions to mass graves located in the Kurdistan region. The Ministry's specialised team completed individual and joint exhumation at six sites containing the remains of more than 178 victims of the Iran-Iraq war - 20 of which were identified as Iranian. The medico-legal institute conducted testing on the remains in an attempt at identification.

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.

²⁴ International Commission on Missing Persons. Available online <<http://www.ic-mp.org/icmp-worldwide/middle-east/iraq/>> accessed 31 June 2011.

6. Rights of Women

UNAMI remains concerned about the respect for the rights and the status of women in Iraq, in particular in regard to gender based violence, so-called 'honour' crimes, trafficking, and domestic violence.²⁵ 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 exception of the Kurdistan Region. Much of the information presented in this section thus concerns the situation of women in the Kurdistan Region; however, UNAMI believes that many of these issues are common across Iraq.²⁶

UNAMI continued to document cases of alleged suicide in Sinjar, in the Ninewa Governorate, predominantly among young people from the Yezidi community. During the first six months of 2012, 18 cases of suicide were reported to UNAMI, of whom the majority were women. Suicides are considered a private family affair, and thus few cases are reported, and there is rarely any follow up by the police. UNAMI is concerned that the actual number of suicides may be higher than that reported. It is difficult to ascertain the underlying causes, but UNAMI believes that forced marriages, family honour, and cultural practices may be contributing factors. The economic marginalisation of the Yezidi community, particularly in terms of educational and employment opportunities, may also be contributing causes. In response to the issue, the MoHR conducted consultations with families of the victims, governmental officials, clerics and Yezidi community leaders in order to identify possible causes for the phenomenon and to find ways to address it. The Ministry also coordinated with NGOs specialising in the rights of minorities to conduct workshops and seminars with the Yezidi community to raise awareness of the issues.

Cases of self-immolation among women were also reported by hospitals in Kirkuk. Few cases were reported to the police, who are reluctant to conduct investigations on such cases involving women. After a unanimous vote by Kirkuk Provincial Council to establish a women's shelter in Kirkuk, the project has been stalled allegedly due to delays at the federal government level.²⁷

The GoI has taken some steps in relation to promoting respect for the rights of women. Importantly, the Government passed the Anti-Trafficking Law no 82 of 2012 and has established central and sub committees to implement the law and develop strategies to address the problem.²⁸ Furthermore, a draft family protection law is currently before the Council of Representatives. The MoHR conducted 62 field visits to women's civil society organizations, girls' schools, suburban areas and districts, ministries and governmental institutions, to monitor issues affecting the enjoyment by women of the civil, political and economic rights. However, more needs to be done. In relation to this the Government of Iraq needs to repeal sections of the Iraqi Criminal Code that prescribe 'honour' as a mitigating circumstance in relation to violence committed against women and family members.

6.1. Rights of Women in the Kurdistan Region

The Kurdistan Region Government continued to be proactive in tackling the issue of violence and discrimination against women and to take positive steps to address these issues. Deep-seated cultural norms and traditions need to be overcome to ensure progress in relation to violence against women and children – and many public officials in the Kurdistan Region Government have added their voices in denouncing violence against women and to raise awareness of the issue, including the Kurdistan Region Prime Minister, Nechirvan Bazarni, who has spoken publicly about these issues in a number of public fora.

²⁵ 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.

²⁶ 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

²⁷ In relation to this matter, MoHR informed UNAMI that the delay has been caused by the fact that the relevant law grants sole authority for the establishment of shelters to the Ministry of Labour and Social Affairs (MoLSA) and more studies need to be undertaken to ensure that shelters are established in a manner which is most beneficial and supportive to the victims of violence.

²⁸ Statistics on trafficking are published by the Ministry of Interior and are available on the Ministry's website.

Cases of violence perpetrated against women and girls continued to be documented throughout the Kurdistan Region. It should be noted that the rise in cases of violence against women being reported to the Kurdistan Region Government is due to the growing awareness and confidence of women who are subjected to violence in coming forward to report incidents and in the quality of the response to such cases by the authorities. According to the Directorate to Follow Up Violence Against Women (DFVAW),²⁹ a total of 2257 cases were reported between January and June 2012. Official figures show that Sulaimaniya Governorate witnessed the highest number of incidents of violence reported, followed by Erbil, Dahuk and Garmiyan. Root causes of violence often lie in patriarchal norms that limit women's freedoms and a challenging economic situation which fuels quarrels inside domestic walls. The DFVAW reported the deaths of 38 women – who were either killed or who committed suicide – during the same period. This figure is substantially higher than that reported for 2011 – again due to the growing awareness of the community and confidence of family members in coming forward to report such cases. Verbal abuse remains the predominant form of violence with 1415 cases, while 519 women reported being subject to physical violence and 81 cases of sexual abuse were reported. There were 123 reported cases of women who attempted to burn themselves and 228 cases of women burned accidentally; this figure seems high when compared to 2011, when 351 such cases were reported for the whole year. In many cases of alleged suicide, there is no judicial investigation as classification of a case as suicide is sufficient to close the file. In early February, following a fatal incident involving a heater in which one woman died, a police investigation found evidence of the involvement of the victim's husband from whom she wanted to separate. The man was arrested and the case is still pending.

Shelters for victims of domestic and sexual violence exist in all three Governorates in the Kurdistan Region. While the provision of basic services such as immediate protection and basic accommodation is generally satisfactory, sustainable solutions for the reintegration of survivors of violence continues to face challenges, especially in cases when women face threats from family members. UNAMI has documented cases of survivors who have spent prolonged periods of confinement inside shelters with no durable rehabilitation programme. Vocation training opportunities for victims of violence are generally ad-hoc.

While the Kurdistan Regional authorities took some steps towards the implementation of the 2011 law "Combating Domestic Violence in the Kurdistan Region of Iraq", gaps remain to fully activate the legal instrument. As of June 2012, the high Judicial Council has appointed specialised judges only in the courts of Erbil, Sulaimaniya and Dahuk to receive domestic violence cases. Second, a committee to attempt reconciliation among parties, prescribed in the legislation, has not been established, leaving judges to perform such a mediation role, or cases remain pending. Third, the KRG Ministry of Interior has not yet set up a special cell of female police officers specifically trained to deal with domestic violence cases – however, the Ministry worked to ensure that more women were accepted into the College of Police who it is envisaged will be appointed to work with the DFVAW after graduation. The KRG Ministry of Interior has also indicated it intends to establish a special unit within the Ministry tasked with finding ways to help prevent violence against women.

7. Rights of ethnic and religious groups

Members of Iraq's ethnic and religious groups continue to face attacks directed against them on account of their ethnic or religious affiliation. Areas around Mosul and Kirkuk are home to many of Iraq's ethnic groups, including Yezidis, Turkomen, Shabaks, and Christians, and these communities continued to be subject to high levels of violence. Around Mosul, UNAMI documented nine attacks against members of the Shabak community. In one attack, on 16 January, 9 Shabaks were killed when a car bomb exploded in Bartilla, east of Mosul, targeting a residential complex inhabited by displaced Shabak.

Attacks on Christians were recorded in Mosul and Kirkuk. In June, the Archbishop of the Chaldean church in Kirkuk issued a press statement saying that the Christian population in Kirkuk still faced threats and human

²⁹ The Directorate to Follow Up Violence Against Women is established under the Kurdistan Region Ministry of Interior.

rights violations and that as a result many Christians were forced to flee. UNAMI recorded two attacks against Christians in Mosul during the reporting period.

In May and June tensions increased between Christian and Shabak communities in the area of Bartalla, in Nineveh governorate. On 28 May, a Christian guard was injured in a dispute with bodyguards of a Shabak parliamentarian. Christians in the town of Bartalla set up checkpoints, in an attempt to prevent Shabak from entering the town from outlying villages. Some Christians claim that Shabaks are trying to alter the demographic balance of the town, eroding the predominance of Christians. In response, the GoI announced plans to recruit members of the Shabak and Christian communities into the security forces to address the concerns of the local populations. Furthermore, the Government had established a High Committee pursuant to Council Order 54 of 2011 to investigate and report on the issues.

On 8 January, unidentified armed men assassinated a Turkoman community leader in Kirkuk. The motive of the attack is unknown. In Ninewa, on 7 March, a car bomb was detonated inside the Al Kifah neighbourhood of Tal Afar district, killing 23 people. Reports received by UNAMI suggested the attack was targeting members of the Turkoman community, who are the predominant population in the district.

In response 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 total of 20 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 are working to review the school curriculum to ensure appropriate education on minorities and their rights in Iraq and aimed at creating tolerance and acceptance.

7.1. Rights of ethnic and religious groups in the Kurdistan Region

In the Kurdistan Region, the regional authorities reacted strongly to riots in Zakho in December 2011 that had led to the burning of shops and businesses owned by Christians and Yezidis. A number of arrests were made and compensation has been promised to the owners of those businesses that suffered losses. Government investigations suggest that the unrest was not specifically targeted against minorities.

In June, Christian religious leaders in the Kurdistan Region raised concerns regarding statements made about Christianity in a school textbook for Islamic studies. The textbook was withdrawn from schools after an investigation by the KRG Ministry of Education. The investigation concluded that the mistake was unintentional and the text will be reviewed.

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 perceived sexual orientation.

This problem was exacerbated in early 2012 when negative social attitudes directed against persons on the basis of their sexual orientation began to be linked to other socially unacceptable practices including drug abuse, Satanism, and in particular to modes of dress and hairstyles not conforming to conservative codes – particularly young people adopting styles labelled as ‘emo’ - a global music and fashion style common to many teenagers. Media reports suggested that scores of young persons were killed in Baghdad and elsewhere, with conservative religious groups such as Al-Mahdi (Mahdi Army) and Asa’ib Ahl Al-Haq (League of the Righteous) held responsible. According to reports by some NGOs, up to 56 persons described as ‘emos’ were reportedly killed in different parts of Iraq, especially in Baghdad and Babil. Reports from local media and some NGOs put the total number of ‘emos’ reportedly killed during the same period at around 90. However UNAMI was not able to confirm these reports. Media reports suggest that lists of names of youth with ‘emo’ appearance were distributed in the Sadr City and Bayaa areas of Baghdad warning that the individuals would be killed unless they changed their dress and hairstyles.

UNAMI was able to verify the deaths of at least 12 individuals, most likely motivated by negative attitudes to “emo” fashion or perceived sexual orientation or a combination of these reasons. One case verified by UNAMI concerned a young man who was killed in Sadr City on 6 February. Photos of his battered corpse

were circulated on the internet. While his murder was attributed to the fact of his clothing and hairstyle (“emo” style) UNAMI obtained evidence suggesting his murder was motivated by his sexual orientation. In another case, in late February, a young man was found hanging from a bridge in Baghdad. Evidence collected by UNAMI indicated that the motivation for his murder was the perceived link between his mode of dress and hairstyle and his perceived sexual orientation.

As local media further highlighted the phenomenon of “emo” there was an upsurge in young people reporting harassment, threats, and violence being directed at them on account of their clothing and hairstyles. Young people in Basra reported being harassed by armed men, some being forcibly held down and beaten in public while their hair was cut. In Baghdad, other young people reported that they were afraid to leave their homes, owing to harassment by police and soldiers at checkpoints and threats directed at them by unknown persons on the street on account of their dress and hairstyles. UNAMI also received reports that universities in Baghdad had ordered their security guards to turn students away who did not meet acceptable modes of dress and hairstyles. On 7 March UNAMI was able to verify the killing of two females in their twenties in the Shaab area of Baghdad possibly motivated by their dress and hairstyles but possibly also because of perceived sexual orientation.

As noted, media reports suggest that Jaysh Al-Mahdi (Mahdi Army) and Asa’ib Ahl Al-Haq (League of the Righteous) were responsible for at least some of the alleged killings. However, in a statement on his website, Shi’a cleric Moqtada Al-Sadr described ‘emo’ youths as “crazy and fools”, but said that they should not be killed but rather should be dealt with according to the law. Grand Ayatollah Ali Al-Sistani spoke out against the targeting of ‘emos’, labelling it an act of terrorism.

On 8 March, the MoI issued a statement saying that it had recorded no cases of murder on so-called ‘emo’ grounds. The statement maintained that all cases of murder recorded by the Ministry were for ‘revenge’, ‘social’ and ‘common criminal’ reasons. Officials from the MoHR also denied any cases of killing of ‘emos’ – although the MoHR did acknowledge the killing of the young man in Sadr City on 6 February was motivated by his perceived sexual orientation.

UNAMI calls on the GoI to do all it can to ensure the protection of all Iraq’s citizens from acts of violence and discrimination, including persons at risk on the basis of their perceived or real sexual orientation. 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.

9. Rights of Persons Living With Disabilities

On 23 January the Council of Representatives (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. On 23 February, the CoR approved in principle to establish a National Commission for People with Disabilities, which should 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 Ministry of Labour and Social Affairs (MoLSA). A bill on implementing the Convention was put before the parliament in May – however the proposed law contains a number of deficiencies and had not been passed at the time of writing this report.

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.³⁰

³⁰ In a letter to UNAMI, the MoHR denied there was discrimination against such persons, indicating that services available to persons with disabilities on a non discriminatory basis irrespective of how the disability was caused.

UNAMI is concerned about the absence of specialised educational and health institutions for persons with mental illness.³¹

Physical access to public and private buildings by persons with disabilities to public and private buildings (and hence their access to Government services) remains limited. 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.

9.1. Rights of disabled persons in the Kurdistan Region

In the Kurdistan Region, law no. 22 on taking care of persons with disabilities was signed by the Kurdistan President and published on the Kurdistan Official Gazette on 26 January. The law contains measures encompassing the educational, economic, infra-structural and health sectors to ensure inclusion and full participation of the disabled in public life (e.g., quota for employment of PwD in private and public sectors, employment of teachers qualified in braille and sign languages, etc). The Law received an overall favorable response by Disabled People's Organizations (DPOs) throughout the region, many of whom had actively contributed to its drafting or provided comments. In terms of implementation to date, worth mentioning is the establishment of an inter-Ministerial Council of Monitoring and Developing People of Special Needs (article 4 of the law) - which includes one DPO representative.

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 15 children – 13 boys and 2 girls were killed and 55 were injured in various conflict related incidents during the reporting period.

According to the MRM, the number of children detained under anti terrorism law is 322 (18 percent of the total number of children detained). However, 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 and MoJ.

On 17 May 2012, in Ninewa Governorate, in Mosul district, the Iraqi Security Forces killed three boys aged between 16 and 18 in Al-Muthanna area as they were planting an IED on the road-side, a technique used by Al Qaeda in Iraq (AQI) and other groups. The use of children by armed groups constitutes a serious violation of international and Iraqi criminal law.

In May and June 2012, five incidents of abduction were reported; three were verified as related to the conflict, one in Ninewa and two in Salahiddin. On 24 May 2012, in Ninewa Governorate, Mosul district, Iraqi Security Forces discovered the bodies of a five and six year old girls (cousins) one day after their abduction. The family had not been contacted for ransom and sources believe AQI is behind the incident.³²

The MRM recorded a number of incidents against education establishments and staff. For example on 1 March an IED was detonated in front of a secondary school in Kirkuk. A second bomb was found by police inside the school. No injuries were caused, but the building was damaged. On 22 April, in Salahiddin Governorate, two high school students were killed and another injured when five masked gunmen raided a school premises.

Children have also been victims of human rights abuses at the hands of the Iraqi justice system. In February in Kirkuk, a minor was held with two young adult males by the Iraqi army. All three reported that they were held incommunicado and subjected to electric shocks and were beaten on the head by army personnel over a three-hour period in order to extract confessions. As a result of this mistreatment, the minor

³¹ 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.

³² According to the MoHR, kidnappings of children are not only related to armed conflict, but also happen for tribal, ethnic and other cultural reasons.

allegedly attempted suicide and continues to suffer psychological damage as a result of his experience. Also in Kirkuk, the family of a 16 year-old boy detained in an isolation cell in the detention facility of the Directorate of Intelligence and Federal Investigation told UNAMI that the boy was denied access to legal counsel and was prevented from seeing his family. The family said that the boy was brought before a judge on 2 April without having been able to see a lawyer. The family alleged that the boy had suffered from mental and physical mistreatment. In another case in Kirkuk, a 12 year boy, who lost his parents and was himself critically injured by a roadside bomb, was arrested and detained in Hawija for 20 days before being produced before a court. Medical doctors reported that the boy had lost his vision and suffered impairment of his hearing, among other injuries, and that his condition was deteriorating due to the fact he had been denied medical treatment. On 12 July, Kirkuk Juvenile court convicted the boy and sentenced him to three years imprisonment on terrorism charges based solely on a confession obtained by the police 4 days after the incident in which the boy had been injured – despite the fact was in severe pain and having difficulty in hearing and speaking. The police conducted the interview of the boy without a lawyer or responsible adult present. UNAMI has referred the case to the Minister of Justice and is gravely concerned about the boy's welfare.

An NGO based in Hawija reported to UNAMI a case of 34 widows with children who had been married to men who had fought for Al Qaeda. The widows reported that the authorities have refused to register their children. As a result the children have been denied issuance of legal papers establishing their identities and have been denied enrolment in schools and access to other social services. According to the MoHR, the denial of registration is not due to issues relating to the children's parentage, but due to bureaucratic reasons.

Forced marriage of minors is a violation of the International Covenant on Civil and Political Rights, and forced marriage of minors constitutes a form of child abuse. Iraqi marriage law states that both parties must be over 18. However religious marriages are frequently granted to children. UNAMI has been asked to intervene in a number of cases of girls as young as 15 who have been taken, allegedly against their will, and subjected to forced marriages.

In a positive move the MoHR conducted over 50 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 Gol.

10.1. Rights of children in the Kurdistan Region

In the Kurdistan Region, responsibility for the welfare of children falls primarily to the KRG Ministry of Labour and Social Affairs (MoLSA). According to MoLSA, at the end of June 109 boys and 75 girls in need of care were hosted in three government-run orphanages. The Kurdistan Region has sought to place children in foster homes, and as of June the number of fostered children – 174 boys and 186 girls – outnumbered those who were housed in orphanages.

As part of regular monitoring of detention facilities, UNAMI conducted visits to juvenile reformatories in Sulaimaniya and Dahuk. In Sulaimaniya, overcrowding was observed in the section of the facility accommodating young male convicts, and concerns remain over the failure to separate untried juveniles from convicted juveniles; the two categories are accommodated in separate cells overnight but share the same recreational area during the day.

Consultations continued among numerous stakeholders during the first six months of the year on the draft law on children's rights in the Kurdistan Region to safeguard children from exploitation and violence and promote their rights including education, health, right to a name and nationality and guarantees when children come in contact with the law. No date for the finalisation of the draft law has been agreed.

11. Freedom of Expression

Respect for freedom of the press remains an issue of concern in Iraq. Journalists and media workers continued to be targeted in violent attacks, and suffered harassment, intimidation and arrest for reasons related to their profession.

On 15 January, a security force from the MoI arrested and detained a journalist, Ali Al Fayadh, the Head of the Journalists Union in Wassit Governorate for five days without any judicial order or arrest warrant. The Ministry explained that they arrested Ali because he leaked information regarding the dismissal of dozens of employees from the Facilities Protection Services (FPS) of the Ministry. After his release, he claimed to the Journalist Freedoms Observatory (JFO) that he did not leak the information as the story about the dismissal of the FPS employees had previously been broadcast and published by various Iraqi satellite channels and news agencies.

On 22 January, the journalist Safa Wahem who works as a freelance journalist told the JFO that he had been dragged, beaten, and insulted by some elements of the FPS who work in Al Kindi hospital in central Baghdad after he claimed hospital staff members were demanding bribes from people visiting the hospital.³³

On 7 February, the journalist Mohamed Saad Farhan, a correspondent for Al Anbar satellite channel, survived an assassination attempt when he was attacked by an anonymous person wielding a knife. The attempt occurred in the middle of a popular market in the city of Ramadi west of Baghdad. On 19 February, a number of correspondents and reporters of the Iraqi and foreign media who were present at Camp Ashraf north of Baghdad were insulted and briefly detained while they were covering the operation of transporting the camp's residents to a temporary transit location (Camp Hurriya) in Baghdad International Airport. The JFO received several complaints from journalists that soldiers of the fifth military division, which is responsible for security at Camp Ashraf, seized some journalists' identity cards and detained some of them in order to prevent them from doing their work. On 22 February, MoI forces detained the correspondent of Tareeq Al-Sha'ab newspaper, Aymen Al-Shibeebi, and confiscated his camera while he was covering student demonstrations demanding the resignation of the Dean of the Technology College in downtown Baghdad. The journalist was released after 3 hours without charge.

On 2 April, in Tikrit, Salahiddin Province, a reporter working for Salahiddin satellite channel was killed when an IED detonated inside his car. On 4 April, anti-riot forces under the commander of the First Emergency Brigade, Munir Jawad Kazem Al Abadi, detained a journalist for three days in Dhi Qar Governorate and confiscated his equipment. The journalist was detained and interrogated at Al Thora police station. He then alleged he was transferred overnight to an unknown place where he remained there for three days before he was released without charge. On 8 April, the Commission for Media and Communications (CMC) threatened to close Al Sumaria satellite channel and to impose severe penalties if it continued to broadcast two programs "Aco fee Wahed" (There is some one) and "Kalam Leeks" (Speech Leaks). "Aco fee Wahed" is a comic program which contains jokes, sketches, and parodies of the news and is broadcast each Sunday. "Kalam Leeks" is a weekly programme dealing with a range of social, political and artistic issues.

On 10 April, a correspondent for the Al Ahd satellite channel narrowly escaped with his life when unknown armed men opened fire on his vehicle as he was returning home in Tal Shehan, Dujail, south of Tikrit. On 17 April 2012, security forces in Missan Governorate detained journalist Zakiya Al-Mazouri, at a checkpoint while she was returning from Al 'Imara city after carrying out interviews with officials in the Governorate for Al Mada Institution. Zakiya told JFO that she was detained for several hours at a checkpoint between Kumiet district and Ali Al Sharqi by the Iraqi police. She was released after the intervention of some politicians in the province. Zakiya and her family members were previously subjected to a number of threats and her three sons had been the subject of an attempted kidnapping earlier in the year.

A reporter of Al Rashid television was wounded when a sticky bomb attached to his car detonated in southern Baghdad on 1 May. The motivations for the attack remain unknown. In Mosul, an assassination

³³ The MoHR, in a letter to UNAMI, stated it had received no complaint concerning on this allegation.

attempt against the director of Al Fayhaa satellite channel failed when an army patrol deactivated a sticky bomb attached to the target's car on 4 May. On 8 May, journalist and editor of Al Qasab magazine, Imad Kadhem, notified the JFO that he had been referred to the Commission of Integrity by the General Inspector of the Ministry of Culture, Salah Al Baghdadi. He claimed that the reason related to publication of "unacceptable articles" in different media outlets. In one article he had called upon the General Inspector in the Ministry of Culture to initiate a proper investigation into alleged corruption cases that occurred during the term of former Minister of Culture, Asa'd Abed Al Rezaq.

On 6 June, tens of Sadrist followers demonstrated near Al Ittijah Satellite TV condemning a report broadcasted by the TV on some Sadrist troops. Security forces protected the TV offices. That evening Iraqi Prime Minister, Nouri Al Maliki, stated in a press release that "freedom of expression must be respected, and media outlets must be protected, and no demonstrations will be permitted around them".

On 7 June, Press Freedom Advocacy Association in Iraq (NGO) stated that hundreds of Iraqi journalists filed a lawsuit in the Supreme Court challenging the "journalists' protection law" which was approved by Council of Representatives in August 2011 on the basis that the "law did not meet the real needs of Iraqi journalists and is contrary to articles 13, 14, 38 and 46 of the Iraqi Constitution".

On 13 June, two journalists were injured in Kirkuk while they were covering a car bombing incident. A second car bomb exploded causing injuries to both of them. On 20 June, a former reporter of Iraqi TV was physically assaulted by Police at a bank in Kirkuk. Also in Kirkuk in mid June a well known former Iraqi TV news anchorman was beaten by security forces. The police HQ opened an investigation into the incident, as a result of which a number of police were arrested.

On 21 June, Muqtada Al Sadr allegedly threatened the directors of Iraqi Media Network (which represents government run media and includes Iraqia TV) when he reportedly said that they should "chose between ending their loyalties to the government or quit". Al Sadr complained that "[the Prime Minister] puts pressure on freedom of expression, and Iraqi media outlets are like toys in his hands". On 26 June, police in Kirkuk arrested a journalist and detained him for five hours after taking photos of child beggars being beaten by police.

On 23 June, media sources revealed a letter from the Iraqi Communications and Media Commission (CMC) to the MoI requesting its help in closing down 44 media outlets on the grounds that they lacked official permits. Most of the media outlets involved are Iraqi, although foreign broadcasters including the BBC and Voice of America were on the list. Pressure groups described the move as a setback to press freedom in Iraq.³⁴ This was denied by the CMC, which said the move was aimed at closing unlicensed media outlets. Amid a considerable outcry, the CMC later retracted the threat, to give the organisations concerned, it said, more time to renew lapsed media licences. It should be noted that the head of the CMC is appointed by the Prime Minister, leading critics to question the independence of the organisation.

On 26 June 2012, police forces in Kirkuk detained for five hours and allegedly beat a journalist, Kardo Muhamad. The journalist claimed that he showed the police his journalist ID, but that the police did not care.

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 that fall short of international standards on press freedoms, freedom of expression and freedom of information. In January, the NGO Journalists Freedom Defence Association lodged a lawsuit in the Federal Court to challenge the constitutionality of the Journalist Protection Law, which was passed by the Council of Representatives in September 2011.³⁵ Media

³⁴ See for example Journalistic Freedoms Observatory, "Iraqi Police Given Orders to Shut Down 44 Local and Foreign Media Agencies", 23 June 2012. Available online at < <http://www.jfoiraq.org/newsdetails.aspx?back=0&id=878>>

³⁵ The NGO submitted its case to the Federal Supreme Court in mid January 2012. However, on 30 January the court rejected the case on a technicality, holding that the NGO had not met the formal legal requirements of the new law of NGOs (NGOs law number 12 for 2010) that requires NGOs to renew their registration certificates every two years. At the time of lodging its case, the NGO's registration had expired because its renewal application had not been decided by the government in a timely manner. On 7 June the NGO resubmitted its case to the Federal Supreme Court, which

freedom advocacy groups including Article 19,³⁶ the Committee to Protect Journalists³⁷ and the Iraqi JFO have criticised the law for its vague language and lack of substantive protection for journalists and media professionals in carrying out their professional duties.

11.1. Freedom of Expression in the Kurdistan Region

Journalists and media workers in the Kurdistan Region have continued to suffer from targeting and intimidation. The Kurdistan journalist syndicate in its report of the first six months of 2012 indicated 43 incidents of harassment against journalists; much lower than for the same period in 2011 when the organisation reported 250 incidents. Many of the incidents involved journalists covering demonstrations. The Kurdistan Region Government has asked that journalists covering such events to wear markers or badges which clearly identify them as media professionals.

On 17 February, one journalist, the head of the Metro Centre for Defending Journalists, told UNAMI that he was arrested and beaten by Peshmerga forces while covering a demonstration in Sulaimaniya. According to the reporter, he was arrested together with six other journalists and detained for four hours. Two human rights activists told UNAMI that they were arrested and beaten by security forces during the same demonstration.

One journalist was reported missing on 8 June when he travelled from Erbil to Sulaimaniya. The man, of Kurdish-Iranian origin is editor in chief of Israel-Kurd magazine, which promotes better relation between Israelis and Kurds, and which has been severely criticised by the Iranian authorities. The matter is currently under investigation by the court in Sulaimaniya in cooperation with the Asayish.

In 2011 the Kurdistan Region passed the Law of Journalism, which does not allow for any arrest or imprisonment of journalists in relation to articles they have published. However, some judges continue to use the Iraqi penal code and other old Iraqi law against journalists. On 28 February, two reporters, one from Speda satellite television in Dahuk and the other from Khaboor television in Zakho, were sentenced to two months imprisonment by a Zakho court based on article 222 of the Iraqi penal code. The journalists were arrested in December as they were covering riots in Zakho. The matter has been referred to the Kurdistan Region High Judicial Council.

Violence broke out in Erbil on 8 May in a protest against the publication on 2 May of an article in Chrapa magazine which was deemed blasphemous by some clergy. Approximately 1000 people demonstrated in front of the Kurdistan Region Parliament. The demonstration turned violent and one liquor shop and a private club were damaged. According to some observers, some of the protestors resorted to violence, including the use of iron bars, sticks and rock throwing to intimidate and attack security staff, members of the Parliament and its staff. According to the police, two policemen, two members of parliament and 14 employees were injured as a result of the demonstration. A number of people were arrested by the Asayish, which confirmed the arrest of up to 20 people under article 10 of the Kurdistan Region Demonstration Law. According to the Metro centre for defending the rights of journalists a number of journalists were forcibly removed from the place of demonstration and detained for a few hours by security forces on the day of the demonstration. The Kurdistan Islamic Group reported to UNAMI that two of its members were arrested during the demonstration, while the Kurdistan Islamic Union reported the arrest of one of its members. A case was filed against the magazine by the Ministry of Endowment and Religious Affairs under the Iraqi penal code and the magazine's editor was arrested on 7 May. The Prime Minister of Kurdistan Region has asked the Committee of Endowment and Religious Affairs in the Parliament to draft a law regulating blasphemy. The Kurdistan Journalist Syndicate has said that such a law is not necessary and

postponed its judgment in the case until 8 August to give the defendant (the Speaker of the Council of Representatives, Usama Al Nujayfi) enough time to prepare his submissions.

³⁶ Article 19, "Iraq: Law on journalists' protection fails to protect rights", 14 September 2011. Available online at < <http://www.article19.org/resources.php/resource/2734/en/iraq:-law-on-journalists%E2%80%99-protection-fails-to-protect-rights>>

³⁷ Committee to Protect Journalists, "Iraq's journalist protection law doesn't protect them", 24 January 2012. Available online at < <http://cpj.org/2012/01/iraqs-journalist-protection-law-doesnt-protect-the.php>>

risks undermining freedom of expression in the Kurdistan Region; the organisation argues that the Kurdistan Journalism Law is a comprehensive law able to deal issues such as blasphemy.

On 11 April, demonstrators from the Kurdistan Solution Party (KSP), who had been staging a protest against a neighbouring State near the United Nations office in Erbil, were removed by police. UNAMI received reports that three demonstrators were beaten before being taken to a police station. The head of the General Directorate of Police in Erbil said that no formal permission had been given to the demonstrators and denied that any of the protestors were mistreated during the incident.

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 may 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 Baghdad International Airport zone (BIAP). There the GoI agreed that the United Nations, through UNHCR, would process the residents 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 transportation, temporary transit locations and Camp Hurriya. The GoI is exclusively responsible for ensuring that transit and living conditions meet international human rights and humanitarian standards. The UN undertakes to monitor the transit process and the conditions at Hurriya and to conduct the verification process and to identify individuals in need of international protection through UNHCR. The GoI allows Hurriya residents to make their own arrangements for the provision of water, food, communications, sanitation and the maintenance and rehabilitation of equipment.

The first transfer of 396 residents, along with their personal possessions, took place on 18 February. During the reporting period, a further four transfers of residents took place under United Nations monitoring, so that the total population transferred to Camp Hurriya by end of June stood at 1964, while some 1200 residents remained at Camp New Iraq pending their agreement to voluntarily relocate. Following the relocation of residents in May, the remaining residents at Camp New Iraq refused to participate in further voluntary relocations. Residents insisted that the GoI should meet a number of demands concerning a range of issues before they would accept to participate in further relocations. The GoI, for its part, insisted that the voluntary transfer of the residents should continue unconditionally. By the end of the reporting period no further relocation of residents had taken place.³⁸

Since February, the UN has had monitors at Camp Hurriya through regular visits and a 24-hour hotline. The UN's activities include: observing adherence to human rights obligations; reporting on humanitarian conditions, abuses or violations of human rights; interviewing; and advocating appropriate actions with relevant parties. The monitors have continuously conducted these activities and have observed the conditions at the camp and have consistently found them to meet basic humanitarian and human rights standards.

The residents of Camp Hurriya live in residential containers. On average, there are between two and four people per container as allocated by the residents' leaders, with at least 7m² of living space allocated per person.³⁹ 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 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

³⁸ Subsequent to the writing of this report, all but 100 residents were relocated from Camp Ashraf to Camp Hurriya.

³⁹ Sphere Standards require living space of 3.5m² per person in a refugee camp setting.

to any external medical appointments as necessary. Bottled drinking water is imported by the residents. In addition, each resident has around 200L of water per day for hygiene and other uses.⁴⁰ By end of June, it was agreed by the GoI that the residents of Camp Hurriya could install water pumping and purification plant in the camp. Electricity is provided by 19 generators, 50 percent operating in turn 24 hours a day.⁴¹ Residents have access to cell phones, internet connection and the satellite television channel operated by the Peoples Mujahidiin of Iran (PMOI/MeK).

12.2. Refugees and Internally Displaced Persons

During the reporting period there were no legislative developments in relation to refugee protection. The Government of Iraq 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 refugee law, which was drafted in 2009, and on which UNHCR has commented, remains pending with the Iraqi Parliament. In the 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 Government of Iraq, 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, 1978) to refugees / asylum seekers who have entered Iraq illegally has resulted in jail terms being imposed in a number of cases during 2012 and subsequent deportation orders being issued, which following UNHCR's intervention were suspended.

As at the end of June, a total of 35,348 refugees and 4,577 asylum seekers were registered with UNHCR in Iraq.⁴² The populations, including Palestinian, Iranian, Turkish and Syrian, live in camps, settlements and urban areas of Iraq, with the majority residing in the Kurdistan Region.⁴³ Following a decision in October 2010 by the Iraqi Government to close the Al Waleed refugee camp in Anbar Governorate UNHCR has been working 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. The first relocations took place in late November 2011.⁴⁴ The camp was officially closed on 15 April 2012, with all projects and assistance halted except for the supply of water. UNHCR continues to advocate with the refugees to relocate. At the end of the reporting period 315 individuals remained in the camp (136 Palestinians, 160 Iranian Kurds and 19 Iranian Arabs).

Since February 2012, Syrian nationals have been entering into the Kurdistan Region of Iraq. The KRG authorities maintained an 'open door' policy towards persons fleeing the violence, and by the end of June 2012 some 7,500 persons were reported to have arrived into the KRG, with 6,163 registered by UNHCR and DDM.⁴⁵ The majority of new arrivals have been in Dohuk Governorate, where a camp has been established by UNHCR (Domiz camp), in coordination with the local authorities. Temporary residence permits have been granted to persons residing in the camp, enabling access to public services. Screening of single individuals has been undertaken by the Government (DDM). In contrast, during the reporting period the

⁴⁰ Basic humanitarian standards require 100L of water per day. In Iraq, the average person gets between 70 and 90L per day.

⁴¹ It should be noted that the average Iraqi in Baghdad has access to 9 hours of electricity per day.

⁴² Source: UNHCR Iraq Fact Sheet June 2012.

⁴³ Around 68% of the asylum seekers and refugees in Iraq reside in the Kurdistan Region (Source: UNHCR).

⁴⁴ For persons who wish to relocate, UNHCR is providing a relocation package including transportation, rental subsidies and cash grants. At the end of the reporting period, 101 refugees had relocated, mainly to Baghdad. An additional 35 refugees were resettled from Iraq. Source: UNHCR.

⁴⁵ Source: Syrians in Iraq Situation report, UNHCR, June 25-1 July 2012.

Central Government refused to open the borders to Syrians fleeing the conflict. Only persons with valid visas were permitted entry to the territory.

12.2.1 IDPs

According to the last official Government statistics (January 2012), 1,332,382 persons (235,586 families) were registered as IDPs with the Ministry of Migration and Displacement (MoMD). During the first half of 2012, IDP returns continued at a relatively steady rate, with a total of 25,640 families/ 133,610 individuals reported to have returned in the period January – June 2012.⁴⁶ There was no significant new displacement during this period. Recent surveys on the intentions of IDPs indicate that up to 80% 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 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 MoMD 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 (4million IQD) but also for those who opt to remain in their current place of displacement (2.5million IQD). Shelter and livelihood support are key components of the draft strategy, progressive implementation is proposed in the coming months.

12.3. Evictions

During the first three months of 2012, UNAMI and its NGO partners recorded 7 cases of eviction, often of families living in informal settlements, on government lands or in public buildings. The UN estimates that over 476 000 individuals are living in more than 382 informal settlements throughout the Iraq. Forced evictions contribute to new waves of displacement and impede the efforts of displaced persons, as well as those of the Government of Iraq to facilitate integration and durable solutions.

In accordance with its international obligations and article 30 of the Iraqi Constitution, the GoI is required to protect, respect and fulfil the right of all its citizens to adequate housing. This right is inclusive of freedom from forced eviction and the arbitrary destruction of one's home. The Government of Iraq is required to explore alternatives and to use eviction only as a last resort. In situations where an eviction cannot be avoided, in line with international norms, residents should be consulted, given adequate notice, offered alternative accommodation and provided with legal assistance.

While the Government of Iraq has modified Order 440, passed in 2008, which stipulates that people illegally occupying state property should be evicted, the policy remains in effect. UNAMI has observed that amendments to Order 440 are not uniformly applied in reported evictions and do not meet the minimum standards proscribed by Iraqi constitutional and international law.

12.4. Migrant Workers

While not as prevalent a phenomena as elsewhere in the Gulf, Iraq is home to 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 has received a number of reports of migrant workers suffering from poor work and living conditions and exploitation at the hands of

⁴⁶ Source: UNHCR Monthly Statistical Update on Return, June 2012

unscrupulous employers. Some migrant workers report being forced to work and live in confined and substandard conditions, without guarantees of proper salaries or work conditions. Many reports were received that workers are prohibited by the employers from taking holidays or time off work.

Many of the reports are difficult to substantiate – however, fuelling exploitation and abuse is the lack of enforcement of existing laws by Government authorities, lack of understanding generally about the rights of workers and of migrants in particular, and reluctance of the Government to ensure that migrant workers are able to obtain appropriate visas to regularise their entry and stay in Iraq. Non-Arab (mostly South Asian) migrant workers in Iraq are particularly vulnerable to exploitation. UNAMI documented five cases where migrant workers, who had previously worked for MNF-I or USF-I and benefited from preferential immigration procedures, remained in Iraq after the foreign troops left. Lack of familiarity with legal requirements and administrative procedures, coupled with employers' negligence, resulted in their – often unintended – violation of immigration regulations, as a result of which they were sentenced to harsh prison terms of three to five years. Imprisoned outside Baghdad or nationals of countries without diplomatic presence in Iraq, most workers were without effective consular assistance. Other workers remained confined to the premises of their employer companies without freedom of movement in the absence of visa and work permits.

12.5. Migrant workers in the Kurdistan Region

Due to its relative peace and stability compared to the rest of Iraq, the Kurdistan Region attracts many migrant workers, mainly to fill unskilled labour positions. Based on monitoring activities conducted by UNAMI, the most recurrent form of abuse stems from the non-issuance of residency and work permits to migrant workers. In many cases companies fail to process the necessary paperwork or extort high fees from the worker who, as result, is apprehended and imprisoned. Migrant workers without the correct legal documentation remain vulnerable to exploitation, and are frequently unable to enjoy the right of free movement. These workers are often reluctant to seek protection from the authorities for fear that they might be apprehended. During the reporting period, UNAMI documented 50 cases of migrant workers who were detained in the Kurdistan Region. In two cases, migrant workers without a residency permit were deported to their home country by the Kurdistan Region authorities.

Contracts offered to migrant workers in the Kurdistan Region should comply with domestic legislation. However, UNAMI has been shown, for example, contracts for a catering company that failed to explicitly mention the number of hours to be worked per day. In other cases, contracts have contained no mention of a weekly day of rest, or vacation entitlement. UNAMI has also documented cases of migrant domestic workers whose contract prohibits the worker from leaving the house unless authorised to do so by the employer. While UNAMI did not come across any case where the monthly salary paid to a migrant worker was inferior to the legal minimum wage in the Kurdistan Region, monthly remuneration of 200 USD is low when compared to the cost of living.

In some cases, where housing is provided by the company, reports of sub-standard accommodation were received by the authorities. Although limited in numbers, incidents of physical and verbal abuse in the workplace were confirmed to UNAMI by recruitment agencies and authorities.

Kurdistan Regional authorities have established mechanisms to receive and investigate complaints, and to conduct inspections of work sites. However, it is not clear to what extent migrant workers are aware of their rights and legal avenues available in cases where their rights are not respected. Factors hindering migrant workers' access to justice include language barriers, fear of reprisal from employers, and costs for legal representation.

12.6. Iraqi High Commission for Human Rights

UNAMI human rights office, with UNDP, has been providing technical and logistic assistance to the CoR and the Committee of Experts appointed by it in the process of nomination of Commissioners to serve on Iraq's High Commission for Human Rights (IHCHR). By December 2011, the Committee of Experts had reduced the number of 3085 candidates to a shortlist of 48 candidates (11 women and 37 men) for interview. The Committee of Experts conducted interviews through February and early March 2012. Based on the interview each candidate was awarded a score by each member of the Committee of Experts. These scores

were added and averaged. The Committee of Experts then took the top scoring 25 candidates to make the final recommendation of the 14 Commissioners (11 permanent and 3 back up) to the COR. The Committee of Experts concluded its work on 9 April 2012 when COR finally endorsed the 14 nominations, thereby formally establishing the IHCHR. Ultimately of the 11 Commissioners appointed, two permanent Commissioners and two back up Commissioners were female. While UNAMI was disappointed that more of the permanent Commissioners were not women, the law merely stipulated that one third of all the Commissioners (permanent and back up) were to be female and thus the requirements of the law were met. This aspect of the selection has been challenged by a group of women's groups to the Iraqi High Court but at time of writing the Court had not yet handed down its decision. Apart from this, UNAMI believes that the process of nomination was conducted in a transparent, open, and professional manner according to both the requirements of Iraqi law and international standards.

The formal establishment of the IHCHR is a significant milestone in the history of Iraq – as it is the first time that the country has a nationally owned and run independent institution that will serve as the cornerstone of a national human rights protection system. In accordance with the Iraqi constitution and its establishing legislation, the IHCHR has three main objectives. Firstly, it will promote respect for human rights in Iraq. Secondly, it will protect the rights and freedoms guaranteed by the Iraqi constitution, international law and treaties and conventions ratified by Iraq. Thirdly, the Commission aims to strengthen, promote and develop human rights principles and a culture of respect for human rights in Iraq.

UNAMI, along with the Office of the UN High Commissioner for Human Rights, UNDP and UNOPS, with funding received from the European Union and Sweden, will undertake a programme to capacity build the IHCHR to ensure it functions according to its mandate and in accordance with internationally accepted principles.

12.7. Kurdistan Region Independent Board of Human Rights

No further progress has been made on establishment of Independent Board of Human Rights. The law was passed in 2010 however no steps have been taken to implement it. In a meeting held in February with the head of PUK politburo, Mala Bakhtiyar, UNAMI raised the issue of the activation of the Board. The PUK expressed support for the matter, but added that the current law is not ideal as it establishes the Board within the realm of the regional government, which may bring its independence into question. In a letter to UNAMI, the Kurdish Region Government noted that Article 2 of Law Number 4 of May 2010, which establishes the Regional Board, places the Board under the authority of the Kurdistan Region Parliament, not the Government.

13. National Action Plan for Human Rights

Iraq was examined by the Universal Periodic Review Working Group of the UN Human Rights Council in February 2010. Of 172 recommendations made as a result of the review, Iraq accepted 136 – and planned to fulfil its commitments by developing and implementing a comprehensive National Action Plan on Human Rights (NAP). The NAP was drafted initially by the GoI (through the MoHR) and then subject to a process of consultation. This culminated in a national consultation conference held at the Council of Representatives on 5-7 June 2011 under the auspices of the Prime Minister. Participants at the conference included representatives from Government Ministries, the Council of Representatives, the judiciary, civil society, and the international community. The conference considered a range of recommendations aimed at promoting and ensuring the rights of women, children, rule of law, persons with disabilities, and freedom of expression. These recommendations were incorporated into the draft NAP, which was then adopted and endorsed by the Council of Ministers in December 2011. In December 2011 a cross-sectoral committee (called the 'NAP coordination and follow-up committee') was established under the guidance of the MoHR to oversee implementation of the NAP. Representatives from relevant ministries, civil society, and UNAMI are represented. The committee has established a timetable for implementation of the NAP, and during the first half of 2012, the committee commenced training of staff of relevant ministries on their responsibilities in relation to implementation of the NAP as well as their reporting obligations on progress made to the oversight committee.

Key movement on implementing the Plan has taken place throughout 2012. One achievement was the ratification of the Convention on the Rights of Persons with Disabilities in February 2012.

In addition, the Ministry of Human Rights continued its parallel efforts in promoting the respect and protection of human rights. The Ministry received and investigated over 153 complaints from Iraqi citizens alleging violations of their human rights – and issued 165 opinions, recommendations and legal advice on addressing violations. The Ministry also commenced a study of the resolutions of the former Revolutionary Command Council issued between 1990 and 1995 which may still be in force and which have the potential to seriously violate human rights.

The Ministry held more than 80 workshops, seminars and trainings aimed at promoting a culture of respect for human rights in Iraq. The Ministry also published 63 monitoring reports on the internet and issued 56 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. The Ministry also engaged in dialogue with civil society organizations to examine gaps in the respect for human rights in Iraq, and to consider means to address those gaps.

13.1. Kurdistan Regional Action Plan for Human Rights

UNAMI Human Rights Officer (Erbil) worked on the final preparations for the Human Rights Action Plan for the Kurdistan Region, which was formally launched in Erbil in January 2012 in the presence of a number of key ministers, parliamentarians and civil society activists. The SRSO addressed the gathering for the launch and congratulated KRG for the achievement. While the federal government was in the process of developing a National Action Plan the KRG decided to develop its own plan for the region based on the UPR recommendations and specific needs of the region. The process started in July 2011 under the auspices of the President of the Region.

Development of the Regional Action Plan was led by a group comprising representatives of the key ministries, members of relevant committees of the parliament and members of civil society organizations. HRO provided technical expertise. A new follow up committee, also comprising of representatives from key ministries, parliament members and civil society actors will be established to ensure smooth implementation of the plan. HRO will be present as an observer. The whole process was carried out on cost sharing basis between department of foreign relations and HRO. To date, the implementation of the Plan as well as the establishment of the follow up committee remain pending.

14. Legislative Developments

On 23 January, the Council of Representatives passed the law ratifying the Convention on the Rights of Persons with Disabilities. However, there were concerns about the bill presented before the Council of Representatives implementing elements of the convention. This bill remained before the Council of Representatives at the end of the reporting period. On 23 February, the Council of Representatives approved a bill on Iraq's accession to the Arab Charter of Human Rights.

On 13 February, the Council of Representatives approved the law on "Supporting Small Projects Generating Profit". According to this law, a section supporting small project generating profit) shall be established at the Ministry of Labour and Social Affairs-MoLSA, which will have legal personality and shall represent by the Minister of Labour. This section aims to provide new jobs opportunities, reduce unemployment, increase productivity, support the national economy and provide support to those seeking to establish small businesses, especially in poor areas.

On 23 February, the Iraqi Council of Representatives unanimously approved the law of Trafficking in Persons. This law establishes a committee called "The High Committee for Combating Human Trafficking" within the Ministry of Interior with representatives from the Kurdistan Region, Governorates that are not organized in a region, ministries and other relevant parties to oversee implementation of the law. The committee shall develop plans and programs to combat human trafficking, prepare reports on the issue of human trafficking according to relevant international agreements, assist the victims of human trafficking, implement awareness-raising campaigns about the dangers and affects of human trafficking, and issue an annual report on human trafficking outlining government efforts to combat it. The law provides various

penalties for those engaged in human trafficking, which range from a fine to life imprisonment, depending on the circumstances and severity of the crime committed. The law also mandates the death penalty if the act of human trafficking leads to the death of victim.

14.1. Legislative developments in the Kurdistan Region

The Kurdistan Region Parliament passed the Amnesty law No 13 on 14 June 2012. One of the significant provisions of the law is Article two which allows conversion of death penalty to life imprisonment if reconciliation is reached in front of a specialized committee. However nine crimes are excluded from it. For other crimes prisoners will be released either based on reconciliation or their sentences will be reduced. People who have completed significant part of their sentence can also be considered for amnesty. By July 2012, 756 persons are already released under the Amnesty law according to general director of reform under Ministry of labour and social affairs.

Kurdistan Region Parliament made the first reading for the law on access to information, however a number of journalists and opposition parties complained that the draft law puts many obstacles on the free access to information and they are appealing that the law should not be passed in its current form.

Efforts are on-going for amendments to the Kurdistan demonstration law, No 11 2010. Mainly opposition is lobbying for it along with some members of ruling coalition. They want to amend Article 3, which deals with the need for obtaining permission to hold a demonstration. However no formal steps have been taken.

In March 2012, the Kurdistan Parliament replaced law No 31 from 1971 with law No 4 2012 which deals with Social insurance and retirement benefits. According to Article 1 paragraph 1 all employees and labour working for private companies are entitled to these benefits like government employees. It excludes of employees of international organizations, diplomatic community and security forces who have their own systems and benefits.

MoLSA issued an instruction, instruction 1/2012 under the name "Instruction for use of weapons inside reformatories". It allows staff of reformatory to use weapon in certain conditions and outlines which methods should used first and at what stage and which weapons are used. It excludes use of weapons if the reformatory hosts juveniles. It was published in Kurdistan Gazette No 145 on 30 May 2012.

END

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