



**JUBILEE CAMPAIGN
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Submission to the United Nations Human Rights Committee

regarding

The Republic of Iraq

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Submission by

Jubilee Campaign

Jubilee Campaign is a non-governmental organization in consultative status with the Economic and Social Council since 2003. Our work focuses on promoting the rights of religious and ethnic minorities and raising the status of vulnerable women and children - to protect them from bodily harm and sexual exploitation.

I. Introduction

Jubilee Campaign is a non-profit organization that focuses on promoting human rights and religious liberty in nations across the world. We assist individuals and families seeking asylum in the West from religious based persecution as well as promoting the care and well-being of large groups of refugees fleeing religious and ethnic persecution. Another main focus of our work is exalting the stories of victims of religious persecution, and vulnerable women and children.

II. International Covenant on Civil and Political Rights

Article 6

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 9

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

III. Freedom of Religion

Article 2 of the 2005 Constitution of Iraq states that “Islam is the official religion of the State and is a foundation source of legislation,” which already exhibits a lack of separation of church and state. Moreover, the first section of Article 2 states: “A. No law may be enacted that contradicts the established provisions of Islam.” However, the Constitution states that freedom of religion is guaranteed to all religious minorities including Christians and Yazidis.

In its most recent Concluding Observations published in 2015 in response to the State Report, the Human Rights Committee states:

“The Committee is concerned about the existence of legal provisions and practices that may adversely affect the exercise of the right to freedom of religion or belief enshrined in article 18 of the Covenant. In particular, it is concerned about the affirmation by the State party that persons in Iraq have the right to change their religion ‘but only to Islam’ and that Law No. 105 prohibiting the practice of the Baha’i faith remains in force.”

The conclusion draws attention to the fact that while the government of Iraq claims to protect and promote the freedom of religion, this freedom is restricted for certain minority faiths, the Baha’i faith and also the Wahhabi sect of Sunni Islam. The United States Department of State also raised this legal issue:

“The law prescribes 10 years imprisonment for anyone practicing the Baha’i Faith. For the practice of unrecognized religious groups other than the Baha’i- including Wahhabi Muslim, Zoroastrian, Yarsanism, and the Kaka’i Faith- the law does not specify penalties...” Moreover, “Deputy Justice Minister Hussein al-Zuhairi stated during a dialogue with the Committee on the Elimination of Racial Discrimination that the Baha’i Faith was not a religion, emphasizing the government’s commitment to legislation prohibiting the Baha’i Faith.”

Apostasy laws are the largest violator of freedom of religion or belief, as it criminalizes peaceful religious conversion and also comes directly into contrast with Iraq’s own laws ‘protecting’ religious freedom. The laws indirectly pervade every sector of society though not applied in the Kurdish Regional government where those who leave Islam are allowed to exist though not recognised under the Iraqi national identity law. In Iraq Christian converts are warned to remain

secretive regarding their religious conversion, and are therefore unable to discuss with friends, family, and peers in person or on social media. Children born to at least one Muslim parent are legally registered as Muslim regardless of their other parent's religious orientation, and they are prohibited from ever changing their religious registration. Children are also made to attend schools which are legally obligated to teach Islamic curriculums and pass the corresponding exams to remain in school. Christian women face the disproportionately high possibility of being forced into marriages with Muslim men, especially in the case of rape. According to Open Doors, "rape in Iraq is not prosecuted if the rapist marries the woman he violated, in order to restore the family honor. As such, women, including Christians, could be forced to marry their attacker."¹ Men and women who are openly registered as historical Christians face obstacles in regards to finding employment opportunities despite their often-adequate qualifications, and Christian converts from Muslim backgrounds are usually fired from jobs and reported if their conversion becomes known to their employers or coworkers.²

In addition to legal discrimination, both the United States Department of State and Open Doors confirmed that many members of religious minority groups have reported being victims of societal discrimination and violence. In short, the State Department explains that "non-Muslim minorities reported continued abductions, threats, pressure, and harassment to force them to observe Islamic customs."³ From February to July 2018, there were a few accounts of Christians being shot and killed by anonymous individuals believed to be linked to a terrorist group.

Open Doors explains that Islamic oppression is extremely multi-dimensional, coming from various groups including ISIS and Shia militants who target religious minorities, relatives of converts who make attempts to force their convert relatives to return to Islam or into unwanted marriages or divorces, government authorities who are complicit in and even encourage anti-Christian propaganda and demonstrations, non-Christian religious leaders who promote hate speech and acts, and even underground organized criminal associations who "are joining forces with real estate offices and confiscating Christian-owned properties by falsifying documents with relative impunity."⁴

The Yazidis and the Christians in Iraq face the repercussions of the Islamic State of Iraq and Al-Sham (ISIS)-instigated genocide against their communities in 2014.⁵ Those who want to return to their homes have to deal with issues of ownership, "In Iraq there is no redress for those who have

¹ United States Department of State, *Iraq 2018 International Religious Freedom Report*, 21 June 2019, available at: <https://www.state.gov/wp-content/uploads/2019/05/IRAQ-2018-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf> [accessed 1 June 2020].

² United States Department of State, *Iraq 2018 International Religious Freedom Report*, *supra* note 1.

³ *ibid.*

⁴ Open Doors World Watch Research, *Iraq: Country Dossier*, February 2020, available at: <http://opendoorsanalytical.org/wp-content/uploads/2020/03/Iraq-WWL-2020-Country-Dossier-February-update.pdf> [accessed 1 June 2020].

⁵ "Iraq's Yazidis Still Suffering And Afraid." Voice of America, www.voanews.com/extremism-watch/iraqs-yazidis-still-suffering-and-afraid. [accessed 1 June 2020]; Gardner, Frank. "Iraq's Christians 'Close to Extinction'." *BBC News*, BBC, 23 May 2019, www.bbc.com/news/world-middle-east-48333923. [accessed 1 June 2020].

lost properties, homes and businesses.”⁶ This is something the Iraqi government needs to address. In addition Yazidi women who are survivors of rape by Islamic State fighters are persecuted twofold when they return with children who are denied registration as Yazidis according to Iraqi national identity law.⁷ Iraq's national identity card law does not recognize the children of Yazidi women as Yazidi since the biological father is presumed Muslim.⁸ This poses a new trauma on the mother and survivor of genocidal violence and in the long-term results, “in the subtle erosion of these already small minority groups and a lost opportunity for a child to know their roots.”⁹

IV. Freedom of Expression

Article 38 of Iraq’s Constitution of 2005 states that citizens have the right to freedom of expression, media, and publication. Despite such provisions, the State Department reports that news outlets and media activists faced intimidation by government officials, thus forcing individuals into self-censorship:

“A media environment in which press outlets were closely affiliated with specific political parties and ethnic factions, an opaque judiciary, and a developing democratic political system combined to place considerable restrictions on freedom of expression, including the press.”

Such situation of restriction of free speech and expression has been exhibited to not improve since 2015, when the Human Rights Committee’s concluding observations stressed the Committee’s concern over journalists repeatedly reporting being harassed and intimidated not only by government officials but also by non-State actors.

Though there are now laws in the Penal Code criminalizing criticism of the government, individuals and outlets that do so often experience a shutdown of media operations, temporary detention, and fines. Most often such individuals are targeted by the State’s security forces, whose conduct is, uncoincidentally, often times the main focal point of such demonstrations and protests to begin with. In November of 2019, nine television media channels were shut down for “publishing content inciting violence.”¹⁰ Prior to this mass closure, in October, six television

⁶ “Iraq's Yazidis Still Suffering And Afraid.” Voice of America, www.voanews.com/extremism-watch/iraqs-yazidis-still-suffering-and-afraid. [accessed 1 June 2020]; Gardner, Frank. “Iraq's Christians 'Close to Extinction'.” *BBC News*, BBC, 23 May 2019, www.bbc.com/news/world-middle-east-48333923. [accessed 1 June 2020].

⁷Dw. “Yazidi Women Seek Acceptance for Children Born of IS Rape.” InfoMigrants, Infomigrants, 1 May 2019, www.infomigrants.net/en/post/16613/yazidi-women-seek-acceptance-for-children-born-of-is-rape.

⁸*ibid.*

⁹ Mahmood, Serri. *Challenges of Children Born by ISIS Rape in Iraq*, Masters Dissertation, CERAH Geneva, September 2017, available at: <https://www.cerahgeneve.ch/files/1715/0963/3793/WP49-Challenges-Children-Born-by-ISIS-Rape-Iraq.pdf> [accessed 1 June 2020]., p 29.

¹⁰ United States Department of State, *Iraq 2019 Human Rights Report*, 11 March 2020, available at: <https://www.state.gov/wp-content/uploads/2020/03/IRAQ-2019-HUMAN-RIGHTS-REPORT-1.pdf> [accessed 1 June 2020].

station offices in Baghdad were ambushed shortly following their television covering of anti-government demonstrations.

In contrast to how media stations that present content critical of the government and state security forces were routinely targeted for attacks and shutdowns, pro-government television channels and journalists were awarded premium access to events and information.

In July 2019, a journalist who exposed the corruption and embezzlement of a Basrah district judge was ordered to be searched and arrested for his article. In October, a journalist named Hisham Fares al-Adhami who was covering the government protests in Baghdad was shot and killed by an unidentified individual. Similarly, two months later, a photographer named Ahmed Muhana al-Lami was also reporting on the protests in Baghdad when he was shot by an unidentified individual, and later died from his wounds at the hospital. According to the US State Department, a couple of Iraqi officials believed the attacks to be contributed to “Iranian-backed militias.”

While freedom of expression is provided according to the Constitution, there is a controversial section of the Penal Code which stipulates that “producing, importing, publishing, or possessing written material, drawings, photographs, or films that violate public integrity or decency” is strictly prohibited. The existence of such a law which has the potential to be harnessed by government authorities in the future to crackdown on media outlets and journalists further forced such individuals into self-censorship.

V. Excessive Force and Arbitrary Deprivation of Life

The United States Department of State reveals that throughout 2019, there were a few notable incidents of protesters being killed by “Iranian-backed militias,” notably snipers who were able to shot at crowds with precision- “The human rights office of the United Nations Assistance Mission for Iraq (UNAMI) reported 48 cases of unarmed protesters shot and killed between October 1 and November 4 during demonstrations or while committing acts of property damage, arson, or attempting to enter government or political party offices.”¹¹ In addition to the shooting of numerous protesters, the militias also released tear gas canisters towards crowds of demonstrators and protesters, which led to 16 deaths alone from injuries sustained from the impact of canisters. In late November, not long after the initial round of protests and arbitrary killings, militia groups that are believed to be coordinating with the Iraqi Popular Mobilization Forces killed some 27 protesters in multiple Iraqi cities, and “on November 28 and 29, security forces shot and killed 41 protesters and injured 500 in Nasiriya.”¹² Once again in early December, between 30 and 80 protesters were killed from militias near Tahrir Square in Baghdad.

VI. Gender Violence

¹¹ *ibid.*

¹² *ibid.*

Gender violence, particularly domestic violence, is a prevalent social problem in Iraq- and there is no existing legislation that criminalizes such violence, allowing perpetrators to avoid prosecution for their crimes. On April 18th, 2020, the death of a 20-year-old woman has drawn much attention from human rights and women’s rights advocates to the situation of domestic violence in Iraq.¹³ After a video circulated on social media of an Iraqi women suffering from severe burn injuries and being treated in hospital, the mother of the woman came forward and explained that her daughter’s husband called her to inform her of her daughter’s injuries but prevented her from visiting her daughter at the hospital. Only when she was able to see her did her daughter explain that her husband had been beating her so regularly and so severely that she decided to pour gasoline on herself and- if her husband did not cease his beatings- threatened that she would light herself on fire, which she eventually did go through with. The young woman died from her injuries on April 18th, and her story has gained much sympathy and attention.

“Domestic Violence remains a serious problem in Iraq. The Iraq Family Health Survey (IFHS) of 2006/7 found that one in five Iraqi women are subject to physical domestic violence. A 2012 Planning Ministry study found that at least 36 percent of married women reported experiencing some form of psychological abuse from their husbands, 23 percent verbal abuse, 6 percent physical violence, and 9 percent sexual violence.”¹⁴

The same survey, this time as reported by UNFPA, also reveals that 14 per cent of Iraqi women experienced some sort of violence during their pregnancies.¹⁵ In 2017, one Iraqi woman explained her story- she and her husband sustained a happy and peaceful marriage for nine years, until a disagreement with the husband’s brother in which he called her a “woman with no honor” created a rift between her and her husband. After the incident, her husband grew increasingly vicious and violent, and the repetitive physical abuse drove the woman to threaten her husband that she will self-immolate, quite similar to the story mentioned above. As a result of her self-immolation, she sustains permanent burn scars to her left side, all of which she experienced during her pregnancy.

In another report by UNFPA as recent as 2017, it is revealed that 57 per cent of girls and women aged 14 to 19 years old have experienced female genital mutilation or cutting, that 80 per cent of women have experienced sexual harassment, that 46 per cent “of 10 – 14 years old girls have been exposed to violence at least once by a family member,” that 46% “of currently married women are exposed to at least one form of spousal violence,” and that 14,000 Iraqi women have been killed as a result of gender-based violence since 2003.¹⁶

Iraq’s Penal Code states in Article 41: “there is no crime if the act is committed while exercising a legal right. The following are considered to be in exercise of a legal right: (1) the punishment of

¹³ Human Rights Watch, “Iraq: Urgent Need for Domestic Violence Law,” 22 April 2020, available at: <https://www.hrw.org/news/2020/04/22/iraq-urgent-need-domestic-violence-law#>

¹⁴ *ibid.*

¹⁵ Salwa Moussa, “Enduring domestic violence in Iraq: One woman’s story,” *Fondo de Poblacion de las Naciones Unidas*, 18 December 2017, available at: <https://www.unfpa.org/es/news/enduring-domestic-violence-iraq-one-woman%E2%80%99s-story>

¹⁶ United Nations Population Fund [UNFPA], *Iraq: Scorecard on Gender-based violence*, available at: <https://arabstates.unfpa.org/sites/default/files/pub-pdf/UNFPA%20-%20Iraq%20WEB.pdf> [accessed 1 June 2020].

a wife by her husband....”¹⁷ Moreover, in addition to including the aforementioned provision which allows violence against women, the Penal Code includes no provision criminalizing domestic violence.

While rape outside of marriage is criminalized in the penal code, spousal rape is not prohibited. An even more problematic provision is that “the law requires authorities to drop a rape case if the perpetrator marries the victim, with a provision protecting against divorce within the first three years of marriage. The victim’s family sometimes agreed to this arrangement to avoid the social stigma attached to rape.”¹⁸

¹⁷ *Iraq: Penal Code* [Iraq], No. 111 of 1969, July 1969, available at: <https://www.refworld.org/docid/452524304.html> [accessed 1 June 2020].

¹⁸ United States Department of State, *Iraq 2019 Human Rights Report*, *supra* note 1.