



General Assembly

Distr.: General
23 November 2023

English only

Human Rights Council

Fifty-third session

19 June–14 July 2023

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

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

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

[29 May 2023]

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



Promoting Full Respect for the Rule of Law in Iraq

The rule of law in Iraq is in grave danger of being fatally undermined. Urgent attention of the Human Rights Council and the wider international community is needed to support measures to improve respect for democracy. It must be recalled that the rule of law and exercise of powers should be in good faith, fairly and reasonably, with adequate protection of fundamental human rights and international obligations.

Unfortunately, Iraq is failing its national and international responsibility to protect because militias affiliated with the government are carrying out grave human rights violations, while the Iraqi judicial system is suffering from political interference and is at continued risk of falling victim to corruption.

Militias are above the law and carry out extensive operations to arrest people under various pretexts. This constitutes a clear violation of Iraq's obligations under the International Covenant on Civil and Political Rights. In May 2023, militias linked with the Popular Mobilization Forces, including the Maqam-al-Dawla militia, arbitrarily arrested a number of lawyers, retired teachers, and civilians. Militias announced that these individuals were arrested on suspicion of association with a political party, the Ba'ath Party.

This comes in light of the fact that the government forces do not intervene to do what they must to ensure the security and protection of civilians. So the Shiite militias, linked to the Islamic Republic of Iran, are taking advantage of the atmosphere of chaos and the absence of the rule of law with unprecedented freedom to attack citizens and their property and carry out kidnappings of whomever they want. Militias continue to commit such crimes with complete impunity.

Enforced Disappearances

Enforced disappearances have been rampant in Iraq since the United States of America and the United Kingdom of Great Britain and Northern Ireland invasion of Iraq in 2003. The vast majority of the estimated 1,000,000 disappearances have been committed by Iraqi militias or state-sanctioned security forces. The pervasive nature of grave crimes such as enforced disappearances entails other related human rights violations. Enforced disappearances are often accompanied by arbitrary detentions, breaches of fair trial, and systematic exclusion of the families through the blunt application of an overly-broad definition of terrorism.

More broadly, socio-familial problems arise from enforced disappearances such as trauma, dismantling of families, economic pressure, and fear for families in their pursuit of justice to be targeted by the same militias. Their exclusion from formal justice mechanisms is maintained as the system protects perpetrators and limits the categories of victims who qualify for reparation and compensation. These multi-faceted impacts and their proliferation in Iraq have long been ignored by the Human Rights Council. Urgent attention is required to alleviate the humanitarian impact on families of victims of enforced disappearance.

The Committee on Enforced Disappearances in their April 2023 report called on Iraq to urgently establish a comprehensive search and investigation strategy for all cases of disappearance and to ensure that both recent and older cases are thoroughly and independently investigated. This must be carried out regardless of the ethnic, religious, or national background of the disappeared persons, or the national origin of alleged perpetrators. It is only with transparent investigative mechanisms that the true extent of violations can be uncovered, and the process of accountability can be ensured.

Throughout the last 20 years, the human rights of victims and their families have been undermined through secrecy, control and political discretion displacing fundamental considerations of human rights in the legal and administrative systems. Families' attempts to seek information, to learn about their loved ones' fate are hampered at every turn. There are no accessible procedures that respect the rule of law, and the system is tightly controlled by a state-security infrastructure. As highlighted by the Committee on Enforced Disappearances in the recent report of their country visit to Iraq, control over the procedures that do exist impose multiple factors of impunity.

If the disappeared person is on one of the very broadly expanded “wanted list”, the family and relatives lose all entitlements and have no access to any form of truth and justice.

The frequency of homonyms also results in the detention of people whose names are similar to those accused of terrorism, particularly in the governorates of Salah al-Din, Anbar, Nineveh, Diyala, and Kirkuk. Available information indicates that no due diligence is carried out to check the real identity of the detained person by the notably unreliable security screenings.

All in all, a system ruled by impunity, contributes to re-victimization and undermines the impact of any related initiative. The fight against enforced disappearances in Iraq is a priority that cannot be further postponed. The Committee on Enforced Disappearances has strongly recommended the eradication of all structural causes of impunity in national legislation, to review all aspects of legislation that promote impunity, and put an end to practices that hinder access to justice and perpetuate enforced disappearance.

The final aspect that needs addressing is extending the system of compensation to be fairly open to all claims without discrimination and re-victimization. The compensation system is also beset by delays, insufficient staffing, and political interference. Many individuals remain excluded from the compensation schemes for disappearances and other violations on sectarian basis, merely because they are Sunni, or because they served in the state before 2003 in any capacity, including members of security forces, court officials, teachers, civil servants, or anyone the militia falsely affiliated with a terrorist group.

Alongside rampant enforced disappearances, the existence of other widespread human rights violations undermines Iraq’s claims to respect the rule of law. In 2019, demonstrations called for a complete overhaul of the political system in Iraq. The catalyst for these protests was the continued dominance of sectarian motivations in governance systems. The flawed political system entrenches divides and does not serve the people of Iraq as equally important stakeholders in the shared democratic future. Iraq’s aggressive and unlawful repression of peaceful protests embodies everything that is wrong with its politically sanctioned corruption and barriers to reform.

Excessive and lethal force was used against demonstrators by various forces belonging to the Iraqi authorities (army, federal police, security forces, counterterrorism unit, militias, etc...). UNAMI and OHCHR have documented incidents of attempted or executed targeted killings of protestors, prominent activists, and critics, mostly shootings by ‘unidentified armed elements’ resulting in hundreds of deaths and injuries.

Repression has continued against organizers of protests, including the use of torture to force confessions. The disproportionate use of lethal force against protestors contributed to a chilling effect limiting the ability of social movements and human rights defenders to campaign for the protection of human rights. The Committee on Enforced Disappearances recommended in its April 2023 report that Iraq establishes a comprehensive protection programme, taking into account the inherent risks faced by human rights defenders in parts of the country under the control of armed groups.

Concluding Remarks

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

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

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

20 years since the United States of America-led coalition invaded Iraq, impunity reigns supreme. The international community must continue to pursue justice for the Iraqi people and demand accountability for the violations committed against them.

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