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General Overview:

Thought to be the region in which the world's oldest civilizations were born, Iraq is now a country that has suffered the double punishment of having non-international armed conflict and international armed conflict tear through its territory. An original member of the Organization of Petroleum Exporting Countries (OPEC), Iraq suffered the full brunt of the two Gulf Wars before the U.S. invasion in 2003, placing the country on the "**blacklist**" of Western powers. Today, ravaged by the Islamic State, **the human rights situation in Iraq has been severely impacted**, leaving little room for stability.

The Iraqi judicial system is established by the constitution. In the texts, all the guarantees are in place to respect access to a fair trial or the prohibition of torture. However, on numerous occasions, NGOs and UN bodies have noted that **in practice there are many shortcomings at the judicial level that question the effectiveness of the law**. Many defendants in Iraq reported **violence, torture, and other degrading treatment by authorities** while in detention. **Judges often turned a blind eye to these allegations**. Also, during trials, people often did not have lawyers. In addition, **Iraq has not abolished the death penalty** and some crimes that are not "most serious crimes" are punishable by this sentence. **The violation of the due process of law and fair trial is therefore all the more dangerous as people risk being unjustly sentenced to death**.

Regarding **military penal crimes and military judicial procedures**, apart from official legislative texts, the content of which is difficult to find, only **very few details exist online on Iraqi military criminal justice**. Some of the military crimes listed in the Military Penal Code are subject to the **death penalty**, demonstrating that **the state has recurrently resorted to this practice, which is contrary to the principles of human rights**. The Iraqi Penal Code also contains a list of **offences against military infrastructure**, some of which are **punishable by death**. The military domain is therefore **severely repressed** in several respects, whether the crimes are committed by civilians or by members of the army.

There are **high mental healthcare needs for children in Iraq** and the **available services are inadequate**. The data are insufficient to fully comprehend the prevalence of mental illness, but studies show a high incidence. Major barriers to receiving care are **stigma, discrimination and marginalization** but also simply **lack of health workers, physical infrastructure, medication, training and awareness** for professionals and the population. Iraq is facing **massive brain drain**; there are **extremely low numbers of health professionals** in the country. There has been **hardly any change** between the **number of mental health professionals in 2005** when they are described by the Iraqi Ministry of Health as insufficient **and in 2020** with the latest WHO data. **There is no standalone mental health plan regarding children, adolescents nor suicide prevention**.

Finally, the situation of minors in Iraq is critical. **The state does not provide for children's education or health needs**. Resources are inadequate in terms of goods, infrastructures and personnel. These deficiencies increase children's vulnerability. They face many challenges, such as **surviving armed conflicts, domestic violence, gender-based violence, violations of their rights, etc**. Children are frequently victims of violence, both at school and at home. Young girls may be forced into marriage. Poverty is also a major problem for all. The overall disastrous State economy has **forced them to leave school and work in dangerous conditions**.

1) Court System, Access to Fair Trial, Persecution and Conviction under Article 197 of Iraqi Penal Code

1.1. Court System and Sentence of Death Penalty

The **Iraqi judicial system is a multi-level system established by the Constitution**. It is headed by the Supreme Judicial Council, which is composed of **different courts with different jurisdictions** depending on the offences committed. At the criminal level, the Iraqi Penal Code still provides for the possibility of imposing the **death penalty** even for crimes that do not meet the threshold of “most serious crimes” established by international human rights conventions.

1.1.1. Court System

Source: Iraqi Constitution, 2005

“Article 89: The federal judicial power is composed of the Higher Juridical Council, the Federal Supreme Court, the Federal Court of Cassation, the Public Prosecution Department, the Judiciary Oversight Commission, and other federal courts that are regulated in accordance with the law.”

[Provisions about Iraqi Kurdistan]

“Article 116: The federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations.

Article 117: First: This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region.

Each region shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution”.

Source: Iraqi Criminal Procedure Code, 1971

“Article 137

A. Penal courts are the Court of Misdemeanour, Court of Felony and Court of Cassation. (45 Note that RCC Resolution 104 of 1988 effectively adds the Court of Appeal in its Cassation function and note also the Juvenile Investigation Court and Juvenile Court established and regulated by the Juvenile Welfare Law No. 76 of 1983). These courts have jurisdiction to consider all criminal cases with a few special exceptions.

B. Civil government officials who do not have authority, may be granted judicial authority for misdemeanours by decree of the Minister of Justice based on a proposal from the minister responsible for the implementation of penal authorities stipulated in the relevant laws.

Article 138

A. The Court of Misdemeanour has jurisdiction in cases of misdemeanours and infractions and can be authorized to give rulings in cases involving only misdemeanours or only infractions.

B. The Court of Felony has jurisdiction to rule on cases of felonies and to review the cases of the other offences stipulated by law.

C. The Court of Cassation has jurisdiction to review provisions and rulings issued on felonies, misdemeanours and other cases stipulated by law”.

Source: Republic of Iraq, Supreme Judicial Council, *The judicial system in Iraq*, Consulted on March 2023.

“First. Ordinary judiciary

Supreme Judicial Council: Which is the supreme administration of the ordinary judiciary and it's based is in the capital Baghdad. And It's specialized in the administration of the ordinary judiciary and consists of (20) judges [...].

(1) Court of Cassation:

Which consists of a single court in the capital Baghdad and it is considered as the **highest judicial body** in the ordinary judiciary, and it currently consists of a chief and (26) judges, and it is competent in reviewing the decisions issued in all criminal, civil and family courts, it's chief is the Chief of the Supreme Judicial Council and Vice-Chief of the Court is Vice-Chief of the Supreme Judicial Council.

(3) Public Prosecution:

Based in Baghdad, **headed by the head of public prosecution and followed by public prosecutors present in all courts in Iraq** (the task of public prosecution is to monitor the decisions that are issued by judges and the represent the society), the head of public prosecution is a member of the Supreme Judicial Council.

(4) Judicial Supervisory Authority:

Is the responsible body of **monitoring the conduct of the judges and the staff** in all the courts of Iraq. (Except for the Constitutional Court and the courts of the Kurdistan region) [...].

(5) Court of Appeal:

Is the **highest judicial and administrative body in Iraq**, and there is a court **in each of the (15) provinces** of Iraq except for Baghdad which has two making it (16) courts of appeal in total In Iraq (except for the provinces of Kurdistan, because of the independent judicial system in the region). The Head of the court is considered to be the head of justice in the province and a member of the Supreme Judicial Council.

[...]

The Courts of Supreme Judicial Council

First : Court of Cassation:

It is the **supreme judicial commission that examines the decisions issued by the civil courts, personal status courts (family courts) and criminal courts regarding the crimes with sentence of more than (5) years.** The Court of Cassation is **only one in Iraq**, its headquarter is in Baghdad and consists of many commissions [...].

Second: The Appeal Court

There is **one court of appeal in each province except province of Baghdad**, which has two courts of appeal: one in the east of Tigris River (Al-Resafaa) and the second one is in the west of Tigris- River (Al-Karkh). So, the total number of appeal` courts in the fifteen provinces is sixteen except the region of Kurdistan.

The appeals court in each province is **the supreme judicial commission for the courts of the province** [...]

The appeal court is specialize in **viewing the civil claims and criminal claims, that the penalty is less than 5 years.** It consisted of three Judges for the civil cases and three Judges for the criminal cases. It could be available more than one commission based on the need and nature of work in that province.

The verdicts of appeal court should be viewed by court of cassation, and the criminal cases that its punish is 5 years or less, their verdicts are final. Each courts in the province are related to the appeals court [...].

Fifth : Court of Investigation

It consisted of one Judge and one attorney and **specialized to do investigation in all crimes that its punish would be (over 5 years) and the crimes misdemeanors that it punishes for (5 years or less), and the crimes of violation that its punish would from (24 hours to 3 months)** [...]

The Judge has the right after completing the process of investigation to send the case to the court misdemeanors (5 years or less), or to the court of criminals (more than 5 years) based on the type of crime and its penalty or close the case when there were no evidences.

The decision issued by the court of investigation **should be viewed by the court of criminal in the province.**

Sixth: Court of Assizes

There is one court in each province that is consisted of three Judges and one attorney. It is specialized in the cases that their **penalties are more than five years , and its verdicts should be viewed by the court of Cassation.**

Seventh: Court of Misdemeanors

It consisted of one judge and one attorney member, and **could be found in each city of the province. It is specialized to investigate in all crimes that its punish would be (5 years or less), the verdicts will be viewed by court of cassation in the province.**

Eighth: Court of Juvenile

It consisted of one president and three members, and the president should a specialized Judge in minors and the members are not Judges. **It concerns for those who did a crime less than 18, and all issued verdicts viewed by the court of Cassation.”**

1.1.2. The Death Penalty

Source: Iraqi Penal Code, 1969

“Paragraph 25 - A felony is an offence punishable by one of the following penalties: (1) Death. (2) Life imprisonment. (3) 5 to 15 years imprisonment

Paragraph 26 - A misdemeanor is an offence punishable by one of the following penalties:

(1) Detention with hard labor or ordinary detention for a period of between 3 months and 5 years.
(2) A fine.

Paragraph 27 - An infraction is an offence punishable by one of the following penalties:

(1) Detention for a period of between 24 hours and 3 months. As amended in accordance with Paragraph 1 of Law No 207 (1970) published in Al-Waqai’ Al-Iraqiya.
(2) A fine not exceeding 30 dinars”.

Source: Human Rights Committee, Concluding observations on the sixth periodic report of Iraq, CCPR/C/IRQ/CO/6, §18, 16 August 2022.

“The Committee reiterates its concern **that crimes that do not meet the threshold of the “most serious crimes” within the meaning of article 6 (2) of the Covenant are punishable by death, that the death penalty remains mandatory for certain crimes** and that certain crimes punishable by death are explicitly excluded from being granted special pardon. In addition, the Committee is concerned about reports that death sentences are still frequently handed down (arts. 6 and 14).”

Source: Human Rights Committee, Concluding observations on the fifth periodic report of Iraq, CCPR/C/IRQ/CO/5, §27, 3 December 2015.

“Recalling its previous recommendation (see CCPR/C/79/Add.84, para. 10), the Committee remains concerned that **domestic law punishes with the death penalty crimes that do not meet the threshold of the “most serious crimes” within the meaning of article 6(2) of the Covenant.** It is also concerned at information that the death penalty is mandatory for certain crimes and that certain crimes punishable with the death penalty are explicitly excluded from being granted special pardon.

Source: Amnesty International, *The state of the world's human rights 2021/2022*, 2022, p.71.

“**Courts continued to hand down death sentences** in cases of individuals suspected of links to Islamic State or of **extrajudicially killing activists**, and for offences related to the use and distribution of prohibited substances, kidnappings and assassinations.”

Source: Amnesty International, *Death sentences and executions*, 2021, p. 47.

“**The number of people sentenced to death rose to at least 91, more than threefold that of 2020** (at least 27), possibly a result of the courts returning to full activity after a lull caused by the Covid-19 pandemic. **Iraq continued to hold by far the highest number of persons under death sentence** recorded by Amnesty International, which reached at least 8,000, based on official government statements. The number may be even higher: a report published in August by the United Nations Assistance Mission for Iraq cited a letter from the country’s Ministry of Justice according to which in November 2020, it held in facilities under its authority “**11,595 convicts who had been sentenced to death**”.

1.2. Access to Fair Trial

Although Iraqi law provides for guarantees of fair trial, in practice these **rights are not effectively** ensured. Defendants are subjected to **quick trials with little or no defense**. Similarly, **numerous allegations of torture and ill-treatments are regularly reported**, and noted by international bodies and NGOs, which the judiciary seems to ignore.

1.2.1. Due Process and Fair Trial

Source : Dr. Hassan Awda Zaal, *ضمانات المحاكمة العادلة في التشريع العراقي* (Fair trial guarantees in Iraqi legislation), 10 December 2010.

لضمان عدالة الإجراءات التي تتخذها السلطات المختصة (سلطة التحقيق، والمحكمة المختصة)، لا بد من توافر الضمانات القانونية خلال مرحلتي التحقيق والمحاكمة، ولاسيما بالنسبة للمتهم الذي يعد الطرف الأضعف في الدعوى الجزائية، وقد جاءت نصوص دستور جمهورية العراق لعام (2005) مؤكدة على كفالة حق التقاضي وصيانتها فنصت الفقرة ثالثاً من المادة (19) منه على ما يأتي ((التقاضي حق مصون ومكفول للجميع))، كما أكدت الفقرة سادساً من المادة ذاتها على عدالة الإجراءات القضائية بقولها ((لكل فرد الحق في أن يعامل معاملة عادلة في الإجراءات القضائية والإدارية)).

[Translation]

“To ensure the fairness of the procedures taken by the competent authorities (the investigating authority and the competent court), legal guarantees must be available during the investigation and trial phases, especially with regard to the accused, who is considered the weakest party in the criminal case. **The provisions of the Constitution of the Republic of Iraq for the year (2005) affirmed the guarantee and maintenance of the right to litigation.** Paragraph III of Article (19) stipulated, "Litigation is a right protected and guaranteed for all." Paragraph Six of the same article emphasized the fairness of judicial procedures by saying: “**Everyone has the right to be treated fairly in judicial and administrative procedures.**”

Source: United Nation Assistance Mission for Iraq (UNAMI), *Report on Death Penalty in Iraq*, October 2014, p.2.

“The criminal justice system in Iraq remains weak. United Nations Assistance Mission in Iraq (UNAMI) monitoring has revealed a **consistent failure to respect due process and fair trial standards**, as required under Iraq international human rights obligations and the provisions of the Constitution of Iraq.

Of main concern are **lack of resources, training, and forensic capacity of police and law enforcement officials to gather impartial and reliable evidence of sufficient standard to identify alleged perpetrators, to warrant charges, or to secure conviction before the courts.** Lengthy pretrial detention, particularly in relation to the Anti-Terrorism Law, which permits law enforcement officials to detain persons suspected of involvement in terrorism crimes without charge or trial for extended periods, is also a serious violation.

Other concerns include: **interrogation of accused persons without the presence of a lawyer; the use of torture to induce confessions; the reliance by the Courts on confessions of the accused or the untested evidence of secret informants as the sole evidence on which convictions are founded; lack of opportunity for accused persons to prepare and present an adequate defence; and corruption by officials involved in the administration of justice. Many such cases have resulted in the handing down of death sentences.** Although Iraqi law provides for an automatic appeals process in death penalty cases – including appeal to the Court of Cassation and the requirement of a final decree by the President of the Republic sanctioning the implementation of the penalty in individual cases – **once death sentences are handed down by the court at first instance, they are almost never overturned on appeal, and clemency is rarely granted.** The Constitution of Iraq prohibits the granting of clemency or pardon for terrorism crimes”

Source: Human Rights Committee, *Concluding observations on the fifth periodic report of Iraq* CCPR/C/IRQ/CO/5, 3 December 2015, §33-§35.

“The Committee is concerned at allegations that, despite existing legal safeguards, security forces carry out **arrests without judicial warrants, that many persons have been detained for prolonged periods without being brought before a judge,** and that not all detainees have been released immediately after having been discharged by courts or having served their sentences. While noting the denial by the State party of the existence of secret detention facilities, the Committee nonetheless remains concerned at allegations of persons having been held in secret detention. It is also concerned at allegations **that a large number of persons have been held in pretrial detention for periods exceeding those prescribed in domestic law and that persons charged with offences punishable with the death penalty can be held in pretrial detention indefinitely** until the investigation phase is concluded (art. 9).”

“The Committee is concerned about reports indicating that, **in practice, the judiciary is neither fully independent nor impartial. It is also concerned at allegations that judges, lawyers and court officials have been intimidated,** threatened and subjected to physical attacks, particularly by non-State actors. The Committee is further concerned at reports that **violations of fair trial guarantees, including access to counsel, occur frequently in practice,** particularly in terrorism cases (art. 14).”

[In its general comments, the Committee against Torture also noted the widespread practice of torture within the state, *General comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22*, 2018, §43]

Source: Human Rights Committee, *Concluding observations on the sixth periodic report of Iraq*, CCPR/C/IRQ/CO/6, 16 August 2022, §26.

“While acknowledging that the principle of independence of the judiciary is enshrined in the Constitution, the Committee notes that **legislative provisions alone are insufficient to guarantee independence and impartiality.** The Committee remains concerned about reports indicating that, **in practice, the judiciary is neither fully independent nor impartial,** particularly in cases involving persons suspected of involvement with Da’esh, and that judges and prosecutors are often **influenced by political pressure, tribal forces or religious interests.** The Committee is further

concerned about reports that **violations of fair trial guarantees occur frequently in practice**, particularly in terrorism cases, in both the formal judiciary system and in tribal courts (arts. 2 and 14).”

Source: Committee against Torture, *Concluding observations on the second periodic report of Iraq*, CAT/C/IRQ/CO/2, 15 June 2022, §30.

“(…) the Committee (…) notes that **capital punishment continues to be imposed** in the federal courts of Iraq, including in cases involving foreign nationals, and that the executions were carried out. Furthermore, it regrets the lack of comprehensive data and information on legal safeguards in that regard. The Committee is concerned about the reports suggesting that such sentences are prevalently handed down under the counter-terrorism legislation and are often accompanied by a **lack of due process and fair trial guarantees**. The Committee is also concerned about reports that **prisoners on death row in Nasiriyah central prison have been held in deplorable material conditions of detention and have often been subjected to torture and ill-treatment, including false threats** from the prison guards about their imminent execution. Furthermore, and as confirmed by the delegation in its written reply to the Committee’s question, the families are reportedly not notified prior to the execution of their relatives, as envisaged in article 291 of the Code of Criminal Procedure (arts. 2, 11 and 16).”

Source: UNAMI, *Human rights in the administration of justice in Iraq : legal conditions and procedural safeguards to prevent torture and ill-treatment*, 2 August 2021, pp. 4, 13, 19.

“UNAMI/OHCHR findings indicate that, in Iraq, **access to a lawyer is systematically delayed until after suspects have been interrogated** by the security forces and, to a large extent, by the investigative judge (on the requirement under Iraqi law for investigative judges to lead interrogations, see subsection D). Out of 285 instances of detention which involved interrogation by security forces, **no interviewee reported that a lawyer was present**. More than three-quarters of interviewees who were brought before an investigative judge (144 out of 189) stated that **they were not represented by a lawyer during the investigative hearing, whereas almost all had a lawyer during trial**. Five out of 91 interviewees indicated that their trial proceeded **without legal representation**. About 40 percent of the interviewees stated that they had a court-appointed lawyer during trial (37 out of 91)”

“Lawyers also regularly reported that they face **restrictions to access places of detention**, particularly in the investigative phases of the proceedings and in terrorism-related cases”

“**Overreliance on confessions in criminal proceedings as opposed to other sources of evidence** contributes to a climate where security forces may be incentivized to sidestep legal safeguards to obtain a confession. However, experience has shown that **the use of torture and other forms of ill-treatment as a tool for obtaining confessions is a dangerous paradigm**. Besides being illegal and immoral, it is also an **unreliable and ineffective tool for gathering accurate information**”

Source: UNAMI, *Human Rights and freedom of expression: trials in the Kurdistan Region of Iraq*, May 2021, p. 12.

“UNAMI/OHCHR observed the two-day trial and has serious concerns that basic fair trial standards were not respected during the hearing. **The defence counsel of the defendants informed the court that they were denied access to case files and were not given adequate time to prepare for the trial**. All five defendants alleged in court that Asayish extracted their **confessions under torture, but the trial judge dismissed these allegations without further examination**. The defence also was given **no opportunity to access and review key evidence against the defendants provided by secret informers or to challenge that evidence through cross**

examination or by presenting rebuttal evidence.

Immediately following the conclusion of the trial, the Appeals Court in Erbil issued an arrest warrant against the brother of one of the five defendants after he publicly criticized the outcome of the trial during a press [...].”

“In separate but related proceedings, on 28 February, the Asayish Directorate in Erbil filed charges of defamation against one of the five convicted men based on the statement, made during trial as part of his defence, that he was tortured by Asayish. On 28 April 2021, the Appeals Court upheld both the convictions and sentences for all five men. **The court found that the evidence led during the trial, including from secret witnesses, was enough to prove the charges against the defendants. The court also found that the defendants’ confessions were made voluntarily and without coercion.** Allegations made by the defendants that they had been tortured were dismissed. Whilst UNAMI/OHCHR does not purport to make any findings on the guilt or innocence of these five defendants, the unaddressed allegations of torture, the defendants reportedly being compelled to confess guilt, the lack of defence access to the case file and of disclosure of evidence to the defence, denial of the defence counsel’s right to examine incriminating testimonial evidence and the public broadcast of alleged “confessions”, **all raise serious concerns about the fairness of the trials”.**

Source: The Advocates for Human Rights and The World Coalition Against the Death Penalty *Iraq’s Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Suggested List of Issues Relating to the Death Penalty*, 22 June 2020, §15-16.

“**Access to counsel is inadequate**, particularly for individuals accused of terrorism-related offenses. **Defense lawyers are often absent from interrogations and hearings in capital cases.** One state-appointed lawyer in a terrorism case admitted not having prepared for his clients’ trials and said he **could not access the evidence against his clients because it was classified.** Moreover, he said he would receive his pay only after the client’s final appeal or execution, so he had **little financial incentive to prolong the judicial process** on behalf of his clients.

Iraq does not have laws or judicial guidelines requiring judges follow a certain course of action when defendants allege torture or ill-treatment or when they seek to dispute the veracity of their confessions. In certain cases where there may not be enough evidence to convict a defendant, judges may order a “deeper investigation.” Interrogators understand this phrase as a signal to **exert more pressure** on the defendant through the use of torture.”

1.2.2. Ill-treatment and Confessions under Force

Source: The Arab Gulf States Institute in Washington, *The Iraqi Judiciary: Undermined by Violent Intimidation, Corruption, and Politicization*, 30 January 2023.

“The Iraqi judiciary’s record is not much better in upholding other aspects of the law. It vowed that it would impose **harsh punishments** against those involved in violence against demonstrators during the widespread protest movement that began in late 2019, however militias believed to be involved in the violence were not held responsible despite evidence cited by Iraqi security sources against them. More broadly, the U.S. Department of State 2020 report on human rights practices in Iraq, in its evaluation of the judicial and legal system, cited **numerous issues regarding arrest, detention, trial, and sentencing procedures.** A 2018-19 Human Rights Watch study of appeals court decisions in terrorism-related cases found that **judges ignored torture allegations, relying on confessions that were extracted by force** in nearly two dozen cases in which those claims were taken seriously by the trial courts, highlighting how **“gaps in Iraq’s criminal justice system extend to the highest level.”**

Source: Human Rights Committee, *Concluding observations on the fifth periodic report of Iraq*, CCPR/C/IRQ/CO/5, §27, 3 December 2015.

“The Committee is further concerned about allegations of instances in which **death sentences have been imposed on the basis of confessions obtained under duress or torture, or otherwise in the context of trials that did not meet the standards of article 14 of the Covenant**. In addition, the Committee is concerned at reports of the great number of cases in which the death penalty is imposed and the frequency of its application (arts. 6, 7 and 14).”

Source: Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq, A/HRC/38/44/Add.1, 5 June 2018, §67.

“The Special Rapporteur was also made aware of a **large number of allegations regarding violations of fair trial and due process guarantees in death penalty cases**. These include, in particular, sentencing based mainly or solely on **confessions obtained under torture or duress, lack of judicial investigation into allegations of torture during the investigation phase and swift trials resulting in mass executions**. The Special Rapporteur concludes that existing procedural guarantees to ensure fair trials either are **not implemented in practice or have proven insufficient to protect against abuses of due process rights, resulting in systematic violations of the right to life**. She reiterates her call to the Government to establish an official moratorium on the death penalty.”

Source: UNAMI, *Human rights in the administration of justice in Iraq : legal conditions and procedural safeguards to prevent torture and ill-treatment*, 2 August 2021, p. 22.

“**Allegations of torture and ill-treatment of detainees are frequent in Iraqi places of detention throughout all governorates, concerning both terrorism and other criminal cases**. More than half of the 235 detainees interviewed by UNAMI/OHCHR for this report provided **credible and reliable accounts of acts of torture or other forms of ill-treatment**. Iraqi judges, lawyers and medical practitioners also **confirmed the prevalence of these practices** in private discussions. While UNAMI/OHCHR is not in a position to make formal determinations on torture and ill-treatment in individual cases in Iraq, the patterns and trends are clear. Additionally, the findings give rise to **serious concerns that most fundamental legal conditions and procedural safeguards as set out in the international and Iraqi legal framework are routinely not respected**. A main purpose of these provisions, in addition to ensuring fair proceedings and adequate conditions of detention, is to reduce the likelihood of torture or ill-treatment occurring. Moreover, **the mechanisms in place to receive complaints of torture do not appear to be effective or to provide remedy**’.

Source: Human Rights Watch, *Iraq: Events of 2021*, 2021, §2.

“Iraq’s criminal justice system was still marred by the **widespread use of torture, including in order to extract confessions. Despite serious due process violations in trials**, authorities carried out at least 19 judicial executions of defendants sentenced to death.”

1.3. Prosecution and Conviction under Article 197 of Iraqi Penal Code

Article 197 of the Iraqi Penal Code provides for the death penalty in certain cases of destruction of public property. This may **raise the question of their qualification as "most serious crimes" that international conventions require for the use of the death penalty**. However, very **little information on conviction and prosecution under this Article is available**. The only references found about it, both in English and Arabic, are presented below.

Source: Iraqi Penal Code, 1969.

“Paragraph 197 - (1) Any person who willfully destroys, demolishes, spoils or seriously damages a public building or property or property belonging to a government agency or department or public utility or general establishment or property belonging to associations considered by law to be for the public welfare or oil installation or any other state industrial installation or hydroelectric power station or means of communication or bridge or dam or public waterway or place set aside for public use or recreation or any public property of significant importance to the national economy with intent to overthrow the constitutionally appointed regime is punishable by death or life imprisonment.

(2) The penalty is death if the offender uses explosives in the commission of the offence or if that offence leads to the death of any person found in such place.

(3) The penalty is life imprisonment or imprisonment for a term of years if the offence is committed in time of civil unrest or riot or with intent to spread panic among the population or create anarchy but without the offender intending to overthrow the constitutionally appointed regime.

(4) The penalty is imprisonment for a term of years for any person who willfully contributes to the destruction of anything mentioned in Sub-Paragraph 1 or to the obstruction of the normal course of its operation.

(5) The offender will in all cases be ordered to pay for such damage or destruction.”

Source: Amnesty International, Iraq : unjust and unfair : The death penalty in Iraq, April 2007, p.11.

“Besides abductions not resulting in death, Decree Number 3 of 2004 provides **the death penalty for a number of other offences which, according to international standards, cannot be considered “most serious crimes”**. The Decree provides the death penalty for certain offences against the internal security of the state without lethal consequences. These include: attempted overthrow of the government by violent means (Article 190) damage to public property (**Article 197 (1)**) - including government buildings, infrastructure of the oil industry and power stations if it is aimed at the overthrow of the government. Damage to public property where explosives have been used **Article 197 (2)**”

2) Military Penal Crimes and Military Court Procedures

2.1. Military Penal Crimes

While the **Iraqi Penal Code provides a framework for certain crimes committed against military infrastructure**, these are subject to conventional criminal justice. On the other hand, the **2007 Military Penal Code provides a framework for crimes specific to the military, subject to specific procedures**. The penalties most often applied are the death penalty or prison sentences of various lengths, depending on the severity of the crime.

2.1.1. Scope of the Legislation

Source: Iraqi Military Penal Code, 2007.

Article I: “First: Provisions of this law **shall be applicable to:**

- a) **Iraqi military forces’ personnel in service;**
- b) **Cadets of military college** and army schools or institutes;
- c) **Retired or redundant officers, warrant officers, staff sergeants, graduate or redundant soldiers, demobilized soldiers** from the army or any other military force where offence committed

in service;

d) **Captives**; with regard to offences committed against them in detention centers.

Second: Definitions: The following words or phrases shall be interpreted as defined herein:

A. Officer: means all military officers, from lieutenant up, in addition to Imams.

B. Warrant Officer: means staff warrant officers and warrant officers, adjutant and first adjutant.

C. Sergeant: means sergeant first class, sergeant, corporal first class, corporal, and soldier first class.

D. Soldier: means any person employed by the Iraqi Army or any other military force, created at any time within the Iraqi military forces.

E. Army: means ground, marine and air forces.

F. Division: means any unit under the command of an officer.”

Article II: “First: Mobilization: means calling up of reserves to serve in the army at incidents of foreign attacks. This includes active operations.

Second: Mobilization, stated in section (First) hereinabove, commences as of the date of issue of written order stating mobilization of all or part of the army and shall be valid until issue of order for termination of that state.

Third: In case of mobilization for aircrafts and military vessels to leave Iraq Republic at times of peace, this would be valid until their return to base.”

Article III: “Offences, under provisions of this law, which are committed by military persons in foreign countries during their presence with a military force, or committed by a military person that was delegated to fill a governmental post in foreign countries during his service, or students who are delegated or sent aboard on scholarships, are considered as offences that took place in Iraq, provided that they are not prosecuted for the same in these countries.”

Article IV: “Iraqi captives shall be prosecuted before military Courts, pursuant to provisions of this Law, as well as provisions of Geneva Conventions relating to prisoners of war.”

Article V: “First: Offences committed against a military person under the army of coalition countries, during joint military operations, are considered as committed against Iraqi military persons, provided that this country has entered an agreement with Iraq Republic on similar treatment.

Second: Military person: means any person leading a military career. This includes those in Compulsory Military Service after passing the Military Service Law.”

Source: United Nations Assistance Mission in Iraq (UNAMI), *Report on the death penalty in Iraq*, 2014.

“The death penalty is also **provided for by the Military Penal Code of 2007 and covers military personnel in times of war and general mobilisations**. Offences carrying the death penalty are listed in Articles 27 and 28 – and include offences relating to failure of personnel to perform their duty in the circumstances leading to the surrender of themselves or other members of the armed forces and surrender of military installations and military objects or territory; passing of secret documentation or information to hostile powers during peace or wartime; inciting revolt, desertion, or defection of members of the armed forces to the enemy; inciting insubordination or disobedience among other members of the armed forces; disclosing military operations and military secrets to the enemy; spreading panic within the armed forces through misinformation; and communicating secretly with enemy forces, etc.”

2.1.2. Convictable Crimes

Source: Iraqi Military Penal Code, 2007.

- Chapter III – National security crimes (articles XXVIII to XXXII)

Article XXVIII: “He shall be executed, whosoever:

1. Seeks to isolate a part of Iraq from government control or placement of part or whole of Iraq under the control of a foreign country;
2. - Gives or hands a commander or another person to the enemy or adopted means for forcing or seducing them, provided that such acts violate requirements of military situations; base, site, station, garrison, or Guard;
 - Delivers or causes to deliver military laboratories for munitions and warfare equipments, factories, supplies’ warehouses, means of communications and transportation;
 - Burns or strikes army airports or aircrafts or deliberately causes them to become out of order;
 - Deliberately harms the state and benefits the enemy by means of destroying bridges, dams, railway or public roads;
 - Causes or facilitates enemy seizure of part of the military forces;
3. Obtains or copies military items, documents or information meant to be confidential in order to maintain state security or interests and delivers the same, directly or through a mediator, to a foreign state at time of peace or war;
4. is a Commander of a military site and delivers it to the enemy prior to depletion of all means of defense or is negligent in using the said resources;
5. Is a Commander of Divisions in isolated location and negotiates with the enemy to surrender the military divisions under his command and their arms without performing the duties of his position;
6. Is a commander and caused the surrender of river or sea or air force under his command, or delivery of its crew without performing duties of his post.”

- Chapter IV – Absenteeism and absence (article XXXIII)

Article XXXIII: “First: Whosoever, is absent without proper legal justification from his unit or place of duty or exceeds the duration of his leave at time of peace for more than (15) fifteen days for lower ranks and (10) ten days for officers, shall be punishable with imprisonment not exceeding (3) three years;

Second: Whosoever, fails to attend or exceeds the provisions of section (First) above during termination of demobilization at time of peace, is punishable with imprisonment not exceeding (4) four) years;

Third: Whosoever, absents himself without proper permission, or fails to attend the parade field or meeting location assigned by the Commander, or departs from the same without permission or left class without cause, or was in camp or garrison, or another location and found outside the set borders or in a location that prevents him from abiding by the orders of military zone or garrison or other orders that entail not to be present in them without order or permission by his Commander, is punishable with imprisonment not exceeding (30) thirty days.”

- Chapter V – Desertion (articles XXXIV to XXXVII)

Article XXXIV: “Whosoever deliberately does not report absentees, deserters or unregistered remains or those used in official or private works with his knowledge, is punishable with **imprisonment** not exceeding (1) one year.”

- Chapter VI – Desertion via fake illness or injury “malingerers” (article XXXVIII)

Article XXXVIII: “First: Maximum of (3) three years of **imprisonment** shall be applied to whosoever:

- A. in an effort to avoid duty, deliberately and wilfully fake illness or cause self-inflicted illness or injuries
- B. Deliberately cause, by himself or through others, the malfunctioning of a limb, etc, in order to

become invalid for military service

Second: **Imprisonment** not exceeding (6) six months shall be imposed on any military person who deliberately causes hindrance of self healing or executed actions that aggravate his illness or deficiency or disability, with intent to evade any type of military duties;

Third: **Life imprisonment** shall be applied where such acts take place at time of confrontation with enemy;

Fourth: **Imprisonment** not exceeding (2) years shall be imposed on any military person who:

1. uses any means of fraud to desert part or whole of military service;
2. Resorts, with full knowledge, to fraud, for the interest of others, for purposes stated in section "First" herein;"

- **Chapter VII – Disrupting military system (articles XXXIX to LI)**

Article XXXIX: "Whosoever lies about matters relating to his military duties is punishable with either barrack locking or **imprisonment** not exceeding (3) three months."

- **Chapter VIII – Abuse of power (articles LII to LX)**

Article LII: "First: a) Whosoever abuses the powers of his post, status or rank in issuing orders to commit a crime is punishable with **imprisonment**;

b) Commander is deemed to be a "Principal Actor" if the crime is committed or attempted.

Second: Whosoever is high-ranked and abuses powers of his post by means of issue of order or request to the lower rank unrelated to the post or requested a gift or loan from a lower-ranked military person, is punishable with minimum **imprisonment** of (2) two years.

Third: Whosoever deliberately and unrightfully imposes penalties or surpasses his legal capacity is punishable with **imprisonment** not exceeding (2) two years.

Fourth: Whosoever discards the complaint of lower-ranked military person or threatens the complainer to withdraw his complaint is punishable with **imprisonment** not exceeding (6) six months."

- **Chapter IX – Offences against assets/belongings or causing death during mobilization (article LXI)**

Article LXI: "First: Whosoever utilizes the horror of war or misuses military power for unlawful or coercive seizure of other persons' possessions, or unauthorized collection of monies or funds or exceeding limitations of all warfare expenditure for his personal benefit, is punishable with **imprisonment** for a minimum period of (10) ten years.

Second: Whosoever, without military necessity, destroys or vandalizes movable or immovable assets or cuts trees or destroys agricultural crops, or ordered the same to be executed, is punishable with **imprisonment**.

Third: (A) Whosoever distances his military unit, or during mobilization, for the aim of acquiring public or private monies, or assumes power over some funds without authorization, is punishable with **imprisonment** not exceeding (1) one year.

(B) The same penalty stated in subsection (A) above shall be applicable to whosoever fails to deliver legally obtained monies, which he is assigned to deliver.

Fourth: In cases stated in section (Third) hereinabove, the aggrieved person is entitled to file compensation claim before civilian courts against the perpetrator or Commander, who ordered the same.

Fifth: Penalty of **imprisonment** not exceeding (15) fifteen years is applicable, provided that the acts stated in sections (First & Third) hereinabove are accompanied with the use of force.

Sixth: Penalty of **imprisonment** for (15) fifteen years is applicable, provided that the use of power results in permanent disability for the victim.

Seventh: **Death penalty** is applicable, provided that the use of force results in the death of the victim.

Eighth: Whosoever performs or instigates looting, or heads a group carrying out looting, is punishable with life sentence, while other partners are punishable with **imprisonment** not

exceeding (10) ten years.

Ninth: Whosoever participates in the looting stated in section “Eighth” hereinabove is **punishable** with imprisonment not exceeding (10) ten years, provided that he does not perform an effectual act during committal of offence.

Tenth: Whosoever, with the intent of unlawful possession, seizes monies or possessions of persons murdered on battle field or the wounded while marching or in hospitals or during transport, or confiscates monies from prisoners of war in his custody, is punishable with **imprisonment** for (15) fifteen years.

Eleventh: Whosoever vandalizes or loots, or instigates vandalizing or looting of the health facilities under the Red Crescent or Red Cross societies, is punishable with the penalty stated in section “Tenth” hereinabove.

Twelfth: Whosoever deserts or harms a wounded person, whom he is entrusted to deliver to a defined location, is punishable with **imprisonment** for a minimum period of (2) two years.

Thirteenth: Whosoever harms or re-injures an injured person, with intent to seize his possessions, is punishable with **life imprisonment.**”

- **Chapter X – Other offences against assets/belongings (articles LXII to LXXIV)**

Article LXII: “First: Whosoever knowingly and deliberately deserts, destroys or damages any substance relating to military service, or uses the same for his personal interest, is punishable with imprisonment for (5) five years.

Second: Whosoever, out of negligence, loses, destroys, or damages any substance relating to military service, is punishable with imprisonment not exceeding (3) three years.

Third: Decisions are issued to retrieve the materials stated in sections “First” & “Second” hereinabove, if they exist. Where such materials do not exist, or wholly/partially consumed, the decision is compensation equivalent to:

- a) Their value or the value of generated damages;
- b) Threefold of their value where the materials constitute whole weapons or munitions or spare materials for vehicles. Twofold the value of generated damages in the cases stated in section “Second” hereinabove. Fivefold the value of generated damages in cases stated in section “First” hereinabove.

Fourth: Where the materials, whose value or damage is compensated, are weapons, ammunition or related parts, or any other materials related to military service materials and prohibited to be circulated outside the military, they shall be returned to the competent military authority.”

- **Chapter XI – Offences against military honor (articles LXXV to LXXVII)**

Article LXXV: “First: Penalty of imprisonment for minimum period of (3) three months shall be applicable to whosoever:

- a) is found in a state of intoxication;
- b) enters brothels, gambling clubs or places deemed as offensive to military honour;
- c) Accompanies persons known for their bad character and reputation, while, deliberately and knowingly, being dressed in military uniform.

Second: Whosoever is a military person and participates in gambling, is punishable with imprisonment for a minimum period of (3) three months. The penalty shall be imprisonment for a minimum period of (6) six months in case of recurrence of the same.

Third: Whosoever co-resides, in the same residence, with a prostitute and does not move out despite warning, is punishable with imprisonment not exceeding (6) six months.

Fourth: Whosoever is convicted with any acts stated in this article (i.e. Article 75) is deemed to be discharged from the army.”

Source: الحديثي فخري عبد الرزاق, and كاظم اسراء فاضل. 2019. "The Crime of Fleeing in Law". Journal of Legal Sciences 33 (6):1-37.

"The crime of desertion is one of the most dangerous crimes related to the interest of the armed forces along with the security and safety of the state. It is a crime that has both a direct and indirect effect upon the interest of armed forces and state security. Its direct effect is reducing the number of armed forces which leads to decreasing the required number of personnel to defend the state which may cause defeat for the country in case of war or extraordinary circumstances that pass through the country. Its indirect effects are the psychological effects with negative impacts upon the rest of other soldiers because it will decrease the number of soldiers which will increase duties and responsibilities upon the existing soldiers, this will generate exhaustion and lowered morale in achieving the duties and tasks and eventually the main duty will not be achieved accurately. Although the Iraqi legislator dealt with the crime and the penalty within valid military law and put penalties for crimes related with fleeing ranged from execution and life imprisonment and temporary, but still the rate of its commitment is high continuously. **Statistics indicate that annually thousands of military personnel flee despite military service being voluntary not compulsory, furthermore research on this subject is rare.**"

2.2. Military Court Procedures

Military judicial proceedings are conducted by specific courts, which are referred to in the Iraqi Military Penal Code as well as the Military Code of Criminal Procedure. However, some NGOs report **confusion between military and general detention structures** when dealing with protesters or individuals suspected of being part of ISIS.

Source: *Iraqi Military Penal Code, 2007.*

Article IV: "Iraqi captives shall be prosecuted before military Courts, pursuant to provisions of this Law, as well as provisions of Geneva Conventions relating to prisoners of war."

Article XXII: "First: Any military person convicted by a non-military court for offences disturbing national or international state security, or relating to terrorism or sodomy or rape, in addition to imprisonment for longer than (5) five years in relation to other offences committed after enforcement of this law, provided that the verdict is final, shall be deemed as discharged from the army.

Second: Upon Military person's conviction by a non-military court involving a penalty that necessitates, or allows for, implementation of one of the Consequential Penalties stated in section (Second) of Article X hereinabove, **the military person shall be transferred to a military court for issue of verdict of this penalty**, by law."

Article XXV: "A criminal shall be deemed as second offender if he committed a military offence, similar to the one he committed earlier, provided that the **former and latter verdicts are issued by a military court**. Disciplinary breaches shall not count as grounds for iteration."

Article XXVI: "Criminal Courts shall be authorized to execute/terminate penalties in the following cases:

First: Where a military person is convicted with freedom- restricting penalty for committing a military crime, provided that this military person was previously convicted by civil court and granted stay of execution, **the military court shall order the execution of both penalties, consecutively**, where the latter offence was of the same type of the former and he was issued a sentence;

Second: Where the military person is convicted with freedom- restricting penalty for committing a

military crime and granted stay of execution, then committed another offence afterwards, both penalties are applied, consecutively;

Third: Where a military person, who was formerly convicted by a civil court, commits an offence, **the military court may grant a stay of execution**, with the exception of circumstances stated in section (Second) of Article XXII herein.”

Article XXVII: “Verdicts issued by military courts shall not prevent stay of execution of decisions issued by civil courts.”

Article LIII: “Whosoever misuses his powers to influence military courts is punishable with imprisonment for a minimum period of (2) two years.”

Article LXIX: “Whosoever causes delay of military courts’ functions or proceedings, without satisfactory reasons, is **punishable with imprisonment** not exceeding (3) three years.”

Source: Human Rights Watch, *Events of 2020*, 2021.

“Iraqi forces arbitrarily detained Islamic State (also known as ISIS) suspects for months, and some for years. According to witnesses and family members, security forces regularly detained suspects without any court order or arrest warrant and often did not provide a reason for the arrest.

Iraqi authorities also arbitrarily detained protesters and released them later, some within hours or days and others within weeks, without charge.

Despite requests, the central government failed to disclose which security and **military structures have a legal mandate to detain people, and in which facilities.**”

Source: جمهورية العراق, Official government website.

“Fourthly,

1) Military judiciary. (Army)

The **military councils** are specialized with this kind of jurisdiction which belongs to the ministry of defense. It consists of **military officers that are certified with a law degree in military crimes**. And its jurisdiction over **offenses committed by the military in connection with its military function**.

2) Courts of the Internal Security Forces. (Police)

Belongs to the **internal security forces that belong to the Ministry of Interior**. And it consists of **Police officers that are certified with a law degree** in the offenses that are committed by **any member of the police** which is related to his job.”

Source: Iraqi Military Code of Criminal Procedure, 2007.

Article 40:

“First: The Commander-in-Chief of the Armed Forces and the Minister or Chief of Staff of the Army, or whoever is authorized by either of them, **may refer the accused to the competent military court** if he deems that the evidence is sufficient to convict him of the charge attributed to him.

Second: The corps commander, division commander, or whoever holds their positions, or whoever is authorized by either of them, may refer the accused to the competent military court for trial, if he deems that the evidence is sufficient to convict him of the charge attributed to him.

Third: The commanders of the commands are considered as the commanders of the referral to the military courts close to the military unit, or whoever is authorized by the Minister of Defense.

Fourth – The following documents shall be attached to the case:

- A- The referral order to the military court, and it must include the identity of the accused, the name of the president of the military court, the names of its members, and the military prosecutor.
 - B - Investigative papers received from police departments or other investigative agencies.
 - C - A schedule of arrests of the accused, his nickname if he was a soldier, a non-commissioned officer, or a deputy officer, and his line of service if he was an officer.
 - d- A list of the accused's liabilities, which includes a detailed statement of the government's debts.
 - E - The charge sheet in which the crime ascribed to the accused must be included, the legal article applicable to it, the date of its occurrence and its summary, provided that it is signed by the referral orderer or his representative.
 - F - All investigative evidence related to the military crime he was accused of committing.
- Fifth: A copy of the investigative papers shall be given to the accused unit for perusal and to provide him with a copy thereof."

3) Accessibility of Mental Health Care for Children

3.1. Overview of Child Mental Illness

The rates of mental illness and mental health problems in Iraq, particularly among children, are substantial. While much of the research suggests there are **insufficient studies** to fully capture the extent of the problem, the existing studies show indications that many children are going **undiagnosed and untreated** creating **urgent treatment gaps**.

Source: AL-OBAIDI (AK) et al., *Child mental health and service needs in Iraq: beliefs and attitudes of primary school teachers*, Vol.18 No.3, Child Adolescent Mental Health, 2013, pp. 172, 177.

"With regard to Iraq, a number of studies suggest that **mental health problems in children and adolescents are substantial** (Al-Obiadi & Piachaud, 2007). For example, in Mosul, **mental disorders were found in 37% of children and adolescents attending primary health care** (Al-Jawadi & Abdul-Rhman, 2007) and **30% of adolescents had symptoms of post-traumatic stress disorder (PTSD)** (Razokhi, Taha, Taib, Sadik, & Al Gasseer, 2006). In Baghdad, the site of this study, **47% of primary school children reported exposure to a major traumatic event** in the previous 2 years and 14% had PTSD (Razokhi et al., 2006). ADHD was identified in 11% of primary school children in Baghdad in 1999 (Al-Obaidi & Ali, 2009). Anxiety disorders and behavioural problems were diagnosed in 22% and 18%, respectively, of child outpatient psychiatry patients at Baghdad's general paediatric hospital in 2005 (Al-Obaidi, Scarth, & Dwivedi, 2010b)."

"Our teacher participants also observed a substantial problem with school children feeling stressed or angry much of the time, **suggesting a concerning level of untreated child mental health problems**. Our findings show a **major need for child mental health services in Iraq and low availability of services**, corresponding with findings of other studies (Al-Obaidi et al., 2010a; Al-Obaidi, 2011)."

Source: AL-OBAIDI (AK) *Iraq: children's and adolescents' mental health under conditions of continuous turmoil*, Vol. 8 No. 1, International Psychiatry, 2013, pp. 4-5.

"**Major national surveys of child and adolescent mental health are lacking in Iraq.** Resources for service monitoring and outcome effectiveness research are needed, as the **present lack of statistical data and research findings** makes it difficult to plan CAMHS."

"Interest in the mental health of children in Iraq is a relatively recent development. Biomedical care

for adults with mental illnesses began about 60 years ago with the formation of separate psychiatric hospitals in the capital city (Baghdad), and became part of general hospital care across Iraq just three decades ago.”

“In Iraq, child and adolescent mental health services (CAMHS) are commonly **provided in outpatient mental healthcare facilities for the general population**. Psychotropic medications are virtually the exclusive mode of therapeutic treatment.”

“Multidisciplinary work and behavioural, play and other forms of psychotherapy are not part of standard practice. School-based CAMHS are not available.”

“Mental healthcare in Iraq was a neglected area even before the 2003 war (Abed, 2003). The recent armed conflict has had a profound impact on children’s physical and mental health. The problems facing Iraqi children have their roots in the decades immediately before 2003. For example, access to health services for children aged under 5 years is severely limited, especially in rural areas, and the mortality rate among those under 5 in Iraq is one of the highest in the Middle East (Awqati *et al*, 2009).”

“Nonetheless, several smaller studies have **demonstrated increased rates of mental health problems among Iraqi children and adolescents**, including post-traumatic stress disorder (PTSD) and attention-deficit hyperactivity disorder (ADHD) in the cities of Baghdad, Mosul and Nassiriya. One study in Mosul, for example, showed that **37% of children who were patients at a primary health facility complained of a mental disorder** (Al-Jawadi & Abdul- Rhman, 2007). PTSD was reported among 14% of children living in Baghdad and among 30% of those living in Mosul (Razoki *et al*, 2006); 20% of children were estimated to have PTSD among Iraqi Kurds in the north (Ahmad *et al*, 1998). In a clinical sample study conducted in Baghdad during 2005, anxiety disorders were diagnosed in 22% and behavioural problems in 18% (AlObaidi *et al*, 2010b). In 2006 at Nassiriya, a city in southern Iraq, ADHD was found among 15% of schoolchildren (Sadik *et al*, 2008), and in Baghdad the prevalence of the disorder was estimated to be 5.9% during 1999 (AlObaidi & Ali, 2009).”

Source: KAMMEL (K), *Rebuilding the Mental Health System in Iraq in the Context of Transitional Justice*, Vol. 11 No. 3, DePaul Journal of Health Care Law, 2015, p. 382.

“In one study by the Ministry of Health in Iraq, over **70% of primary school students in Baghdad were affected by trauma-related stress**. Furthermore, most of these **children remain untreated**.”

Source: Enabling Peace in Iraq Centre, *Iraq’s Quiet Mental Health Crisis*, 2017.

“According to a **2007 World Health Organization (WHO)** study – the last reliable healthcare survey conducted in the country – **mental health disorders were the fourth leading cause of ill health in Iraqis over the age of five years**. One year earlier, Médecins Sans Frontières (MSF) **estimated that as much as one-third of all children in Baghdad, Mosul, and Dohuk demonstrated symptoms of moderate-to-severe mental illnesses**. In Mosul, which reported the highest percentage of post-traumatic stress-related cases, less than 10 percent of children in need of care had received any level of treatment. In a separate study, **nearly 35 percent of 9,000 self-reporting households suffered “significant psychological distress.”** By the end of 2007, the Iraqi Ministry of Health reported that over 70 percent of those with any mental health condition had experienced suicidal thoughts.”

Source: Republic of Iraq Ministry of Health, *National Health Policy for All Iraqi Citizens 2014-2023*, pp. 9, 38.

“Based on various surveys, it is estimated that the prevalence of mental disorders among the population is 35.5%, while the **treatment gap for management of mental disorders is estimated at 94%.**”

“**high burden of mental illnesses in all population groups;**”

Source: Ali H Razokhi et al., *Mental Health of Iraqi Children*, The Lancet, 2006.

“In January–March, 2006, with the support of the Japanese Government, the WHO Iraq Office, and the Iraq National Mental Health Council of the Iraqi Ministry of Health, three studies on the prevalence of mental disorders in children were completed in Baghdad, Mosul, and Dohuk. This was part of a group of 15 research studies. In the first study we found that, of **600 primary school children from 16 schools in Baghdad (mean age 10·3 years), 283 (47%) reported exposure to a major traumatic event during the previous 2 years. 84 (14%) had post-traumatic stress disorder (PTSD; 21 of 225 boys [9%], 63 of 375 girls [17%].**”

“In the second study in Mosul, **1090 adolescents from eight secondary schools were screened for mental disorders. 323 (30%) had symptoms of PTSD** (127 of 481 boys [26%], 196 of 609 girls [32%]). There was a higher rate of PTSD in the older adolescents. **301 (92%) of the ill adolescents had not received any treatment.**”

“The third study, in Dohuk, involved 120 working street children and 120 school children. **The prevalence of mental disorders was higher in the working children than the school children** (42 [36%] vs 16 [13%]).”

“There is an **urgent need to address the needs of all children** by means of preventive programmes such as life skills education and care programmes within the school setting.”

Source: Julie Meier, *Mental Health and Psychosocial Support in Iraq: Challenges and Solutions*, Georgetown Journal of International Affairs, 27 July 2020.

“Many people live with these dire realities in Iraq, caught up in “a **mental-health crisis** unlike any in the world.” **ISIS brought the latest wave of experiences that were detrimental to the mental health of the Iraqi population**, including the kidnapping of young children, sexual violence, massacres, and other gruesome atrocities. The ISIS capture of Mosul led to one of the fastest displacements in recorded history when nearly 500,000 people escaped the city within two days. The ISIS insurgency also demolished Iraq’s infrastructure, leaving millions of Iraqis unemployed, further accelerating mental health issues and needs.”

3.2. Stigma and Marginalization Due to Mental Illness

Stigma and subsequent marginalization due to mental illness is **widespread** and presents not only a major barrier to seeking services but is also linked to **marginalization and discrimination** against those with mental illness. **Stigma and blame have a significant negative impact on social and family relations.** Furthermore, studies suggest that the high degree of cultural stigma around mental illness means that **mental health issues are underreported.**

Source: Enabling Peace in Iraq Centre, *Iraq’s Quiet Mental Health Crisis*, 2017.

“A 2010 survey of public opinion regarding mental health conducted jointly by the Iraqi Ministry

of Health and International Medical Corporation outlined this challenge. **Approximately 60 percent of respondents agreed with the statement that “mental illness is caused by brain disease,” 65 percent declared that psychological problems were borne of “personal weakness,” and 80 percent affirmed that people with mental health problems are largely to blame for their condition.”**

“Highlighting the social isolation many Iraqis suffering from mental illness experience, only one-fifth of respondents said they would marry a person with unmet mental health needs, and over half declared that they would feel ashamed if a family member suffered from mental illness.”

“For mental healthcare educators and caregivers, overcoming the barriers presented by widespread stigma is a significant obstacle to providing effective treatment.”

“Yet, new opportunities to expand mental health services into vulnerable communities today are limited by the human and financial resources available.”

“However,” declared one psychiatrist in Erbil, “for now we expect to see more suffering, more emergencies, and more suicides.”

Source: SADIK (S) et. al, *Public Perception of Mental Health in Iraq*, Vol. 26 No. 4, International Journal Mental Health Systems, 2010, p. 33.

“Attitudes towards mental illness in Iraq are very mixed, with large proportions of the population holding stigmatising attitudes towards people with mental illness in relation to treatment, work, marriage and recovery. The majority put the blame on the afflicted individual, avoided contact with them and would not openly discuss their own psychological problems.

Source: AL-OBAIDI (AK), *Iraq: children’s and adolescents’ mental health under conditions of continuous turmoil*, Vol. 8 No. 1, International Psychiatry, 2011, p. 4.

“With decreased awareness, the stigma associated with mental health problems is an obstacle compounded by widespread unconcern and a lack of scientific knowledge about mental health.”

Source: ALBORZ (A) et al., *A study of mainstream education opportunities for disabled children and youth and early childhood development in Iraq*, Volume 1-3, CARA Final Report, Council for Assistance to Refugee Academics, London South Bank University, 2011, pp. 9, 64, 65.

“However, Iraq faces major challenges in the development of an education system that is inclusive of all children.”

“A disabled person from Baghdad described the treatment of disabled people in the following terms: [...] Unfortunately society here does not care about people with a disability like us. They just look at us as if we are animals or creatures of a lower rank. This impacts negatively on the confidence of those with disabilities, killing ambition, dreams, and even the will to get better.”

“Another disabled person in Basra is concise and direct: [...] Society looks down on disabled people and does not respect them.”

“Non-disabled people shared these views. For instance, a teacher in Najaf describes the social attitude to disabled people as follows: [...]

“I am sorry to say that society looks down upon these people. Society needs to be educated and directed to help these people. The disabled receive little attention.”

“In Baghdad another teacher is revealing in his remarks: According to my information and observation, **people here do not have positive attitudes towards disabled people. People mock them, and families often take little responsibility for their disabled children.** They are either neglected or abandoned in the streets. There are insufficient institutions to care for these children and sometimes they are exploited by terrorists.”

Source: Iraq Ministry of Health in collaboration with the World Health Organization, *Iraq Mental Health Survey 2006/7 Report*, p. 78.

“In addition, there are other cultural differences that alter the way distress is expressed. Some of these are: The **high stigma associated with mental disorders in the population of Iraq.** This could **limit the acknowledgement of symptoms of mental disorders and their reporting** to interviewers by the respondents...”

Source: World Health Organization, *Mental Health Atlas 2020 Country Profile: Iraq*, 15 April 2022.

Age-standardized suicide mortality rate (per 100 000 population): **4.74**

Source: World Health Organization, *Mental Health Atlas 2017 Country Profile: Iraq*, 2017.
Suicide mortality rate (per 100,000 population): **3.0**

3.3. Lack of Resources for Mental Health Services

The **need for mental health services in Iraq far outweighs the resources available** which are **overburdened and outdated**; these resources include trained professionals, infrastructure, professional training programs, as well as awareness programs. There is only a marginal difference between the total number of mental health professionals in the country between 2005 and 2020.

Source: World Health Organization, *Mental Health Atlas 2020 Country Profile: Iraq*, 15 April 2022.

Total number of mental health professionals per 100, 000 population in 2020 is 1.98.

Source: World Health Organization – Assessment Instrument for Mental Health Systems (WHO-AIMS), *WHO-AIMS Report on Mental Health System in Iraq*, 2006.

“The total number of human resources working in mental health facilities or private practice per 100,000 populations is 1.6.”

Source: World Health Organization, *Mental Health Atlas 2020 Country Profile: Iraq*, 15 April 2022.

Note: These are extracts from the table in the WHO report put in narrative format and are not direct quotations.

No human resources are estimated and allocated for mental health policy plan.

No financial resources are estimated and allocated for implementation of the mental health policy/plan.

A dedicated authority undertakes **irregular inspections of mental health services** and **irregularly**

responds to complaints of human rights violations.

No mental health inpatient facilities specifically for children and adolescents.

There are **21 total child and/or adolescent psychiatrists**, 0.11 per 100,000 population.

There are **53 total mental health workers in child and adolescent mental health services**, 0.28 per 100,000 population.

Source: Julie Meier, *Mental Health and Psychosocial Support in Iraq: Challenges and Solutions*, Georgetown Journal of International Affairs, 27 July 2020.

“To undertake this study, I held over forty interviews with government officials and humanitarian professionals providing MHPSS in Iraq, which **exposed that the country currently lacks sufficient well-trained local clinical psychologists, psychiatrists, and other mental health care providers**. Iraq’s recent history of repression and conflict has diminished basic MHPSS services and the institutional capacity to care for those facing mental and psychosocial challenges. Due to the lack of local MHPSS specialists, capacity-building across the nation’s health care system has fallen to humanitarian agencies. However, **Iraq has a shortage of such professionals, as no Iraqi universities have ever offered clinical psychology degrees.**”

Source: Enabling Peace in Iraq Centre, *Iraq’s Quiet Mental Health Crisis*, 2017.

“Iraq’s overstretched healthcare practitioners are **struggling to treat populations subjected to intense violence**. Yet, intertwined histories of stigma, **insufficient training in mental healthcare** for physicians, and subsequent lack of treatment capacity have handicapped efforts to build Iraqi mental healthcare capacity or deliver psychosocial services to traumatized communities.”

“Redar shares these **challenges with mental healthcare practitioners** across northern Iraq, who struggle to meet **overwhelming needs with limited resources**. Today, there are only 80 practicing psychologists in Iraq and Iraqi Kurdistan, working alongside a limited number of psychiatrists. **Managing overwhelming need for psychosocial care options has pushed local and international organizations to, in some instances, employ under-qualified practitioners who lack the training to treat severe trauma**. Many doctors study mental illness from a theoretical standpoint, rather than gain practical skills like case management, doctor-patient ethics, or emergency care for traumatized individuals. Sherri Talabany, President and Executive Director of the SEED Foundation, an NGO working to develop psychosocial healthcare capacity in Iraqi Kurdistan, concludes thus: “Many NGOs have hired staff and healthcare practitioners who are effectively learning how to provide psychosocial treatment on the job, with incredibly fragile and vulnerable populations.” The simple result of this situation, she says, “is that people are not receiving the care they desperately need. Regrettably, **there are often mental health crises that are not resolved sufficiently, leading to suicides.**”

“**Iraqi psychiatrists always need more money and medicine,**” Redar explains, “but more than anything else, **we need more colleagues who are qualified to treat patients**. Iraq’s current psychiatric capacity is not sustainable.” As a result, healthcare professionals report a significant **treatment gap** for those experiencing conditions better resolved without hospitalization or medication, including anxiety and depressive disorders that are most prevalent across the country today.”

“Before 2003, the main component of Iraq’s mental health system was reliance on institutionalized care for those suffering from chronic psychiatric disorders, complemented by a relative disregard for therapies like psychological counseling. By 2008, Iraq had only two functioning psychiatric

hospitals to serve a growing patient population, relying on **insufficient equipment, medication, and staff; the situation had deteriorated by 2010 to the point that patients were receiving electro-shock therapy for lack of alternative treatment options.**”

Source: AL-OBAIDI (AK) et al., *Child mental health and service needs in Iraq: beliefs and attitudes of primary school teachers*, Vol.18 No.3, Child Adolescent Mental Health, 2013, pp. 172, 174, 177.

“Mental health professionals are few in Iraq (Al-Obaidi, 2011; Al-Obaidi, Budosan, & Jeffery, 2010a; Sadik, Bradley, Al-Hasoon, & Jenkins, 2010), **psychiatrists formally trained in child and adolescent mental health are absent** (Al-Obaidi et al., 2010a; Al-Obaidi, 2011) and **the stigma associated with mental disorders is high** (Sadik et al., 2010; Al-Obaidi et al., 2010a).”

“However, the Iraqi school system currently lacks a mental health philosophy, **there are no school-based CAMH services, and Iraqi teachers are not trained to identify children with learning and emotional problems** (Al-Obaidi & Budosan, 2011; Al-Obaidi et al., 2010a).

Although institutional review boards were not available in the conflict-disrupted area of Baghdad, the study was approved by the regional Iraqi Ministry of Education.

All ten (100%) of school administrators reported that their school had no contact with any health or mental health services.”

“**75% of teachers reported having received only ‘brief’ training on mental health issues** during their graduate education or through self-directed study using books, websites, or other media. Eighty percent of teachers reported receiving no training on mental health issues during their teaching careers (for example, no in-service training, workshops, or continuing education on mental health issues). Only 3% of teachers reported receiving some education through consultation and contact with mental health professionals.”

“We found teachers in Baghdad, Iraq’s capital and largest city, to have inadequate levels of training and education in mental health and behavioural problems of schoolchildren.”

“However, our findings of teachers reporting **insufficient school resources, too many students in each class and insufficient teacher training** are corroborated by national surveys showing Iraq’s schools to be too few and overcrowded, (requiring 36% of primary schools to operate in double shifts) (Geopolicity, 2009), and showing weaknesses in primary school teacher training and competencies (Geopolicity, 2009; Akpan et al., 2010).”

Source: Alborz et al., *A study of mainstream education opportunities for disabled children and youth and early childhood development in Iraq*, Volume 1-3, CARA Final Report, Council for Assistance to Refugee Academics, London South Bank University, 2011, p. 9.

“These difficulties are not only due to isolation from the international movement of ‘Education for All’, but **also reflect the degradation of Iraq’s specialist human capital through the mass departure of trained professionals, and the near complete collapse of educational and health infrastructure** as a consequence of protracted conflict, international sanctions, hyperinflation and poverty. This report recognises the extreme conditions under which Iraq is struggling to rebuild public health services and educational capacity.”

Source: World Health Organization – Assessment Instrument for Mental Health Systems (WHO-AIMS), *WHO-AIMS Report on Mental Health System in Iraq*, 2006.

“The total number of human resources working in mental health facilities or private practice per 100,000 populations is 1.6.”

Source: AL-OBAIDI (AK), *Iraq: children's and adolescents' mental health under conditions of continuous turmoil*, Vol. 8 No. 1, International Psychiatry, 2011, p. 4.

“Another challenge facing the delivery of CAMHS in Iraq is the **shortage of human resources**. None of the 100 or so psychiatrists in Iraq has formal training in child and adolescent mental health. According to the World Health Organization (2009), the only other mental health human resources include, nationally: 7 general practitioners practicing mental health; 145 psychiatric nurses; 16 psychologists; and 25 social workers. In the majority of low- and middle- income countries, mental health awareness is lacking and low priority is given to mental health within general health planning (Murthy, 2008). **In Iraq, the picture is even bleaker, as there are few CAMHS available in spite of the additional needs arising from the prolonged conflict and violence.**”

Source: KAMMEL (K), *Rebuilding the Mental Health System in Iraq in the Context of Transitional Justice*, Vol. 11 No. 3, DePaul Journal of Health Care Law, 2015, pp. 373, 376.

“Additionally, problems in the condition of mental institutions increased exponentially. According to former interim Minister of Health, Dr. Khudair Abbas, **patients with mental health problems had been kept under prison-like conditions** and many escaped when their institutions were looted and vandalized last year. **Inhumane treatment of patients** was symptomatic of Saddam Hussein's dictatorship, which tortured and murdered thousands of Iraqi citizens. Thus, the mental health problems caused by the wars were compounded by the regime's treatment of patients as well, **resulting in a serious health crisis.**”

“The national database results showed that the total number of mental health care workers was 1.6 per 100,000 people. Additionally, **most of the mental health care workers work in the urban areas, exacerbating the problems of the rural poor**. According to a 2004 study, the number of trained mental health care workers and facilities remained severely low, especially for a total population around 28 million.”

“The mental health care system currently in place is **outdated by modern standards**. It still has long-term institutional care, which the mental health profession has been shifting away from, lack of multi- disciplined professionals, and still **relies on abuse-prone medications.**”

Source: Iraq Ministry of Health in collaboration with the World Health Organization, *Iraq Mental Health Survey 2006/7 Report*, p. 91.

“The last observation relates to the **poor accessibility and/or availability of treatments for people with mental health disorders** (less than 7% for 12 month prevalence). This **extremely low level of care availability/accessibility is a major concern for the future**. The lack of treatment facilities also contributes to understand the need for people to adapt their behaviours and develop resiliency as a necessity for survival. Such adaptations of people facing traumatic events in the absence of mental health support is at a high psychological cost, as confirmed, for example, by the **high rate of suicidal ideas amongst individuals suffering from mental disorder (about 70%).**”

Source: AL-KHALISI (N), *The Iraqi Medical Brain Drain: A Cross-Sectional Study*, Vol. 43, No. 2, The International Journal of Health Services, 2013, p. 376.

“Of doctors in Iraq, 50 percent show interest in emigrating in the near future, while **83 percent those who are abroad intend to stay away from Iraq.**”

“As a result of this emigration, **Iraq is facing a brain drain that will further damage the already crippled health care system for decades**. The exodus will impact the system leadership, educational and training quality, and the capacity to provide services over extended time periods.”

Source: KAMMEL (K), *Rebuilding the Mental Health System in Iraq in the Context of Transitional Justice*, Vol. 11 No. 3, DePaul Journal of Health Care Law, 2015, p. 373.

“The sanctions also **severely depleted human and material resources. The most destructive factor was the 'brain drain,' in which many of Iraq's medical doctors and experts fled Iraq for fear of their lives or those of their families.** The health care professionals faced the threat of kidnapping, intimidation, deprivation of control, restrictions on travel and education, lack of access to journals, conferences, education, and colleagues.”

Source: Republic of Iraq Ministry of Health, *National Health Policy for All Iraqi Citizens 2014-2023*, p. 14.

“**Brain drain of skill health professionals** not only in rural areas but even urban and high level positions leads to **shortage of skills base and overall capacity to serve the population;**”

3.4. Mental Health Legislation and Policy

Iraq has had a mental health policy/plan in place since 2017, however the resources including **funding and human resources are not in place to make it operational.** There is **no stand-alone policy or plan for child or adolescent mental health** nor suicide prevention.

Source: World Health Organization, *Mental Health Atlas 2020 Country Profile: Iraq*, 15 April 2022.

[Restructured information provided from source]

2017 Iraq Mental Health Policy/Plan has a score of 2 (out of 5):

“Policy/plan pays explicit attention to respect of the rights of people with mental health conditions and psychosocial disabilities as well as at-risk populations;”

Given the score of 2, this means **the policy/plan:**

Does not promote a full range of services and supports to enable people to live independently and be included in the community (including rehabilitation services, social services, educational, vocational and employment opportunities, housing services and supports, etc.);

Does not promote a recovery approach to mental health care, which emphasizes support for individuals to achieve their aspirations and goals, with mental health service users driving the development of their treatment and recovery plans;

Does not promote the participation of persons with mental health conditions and psychosocial disabilities in decision-making processes about issues affecting them (e.g. policies, laws, service reform, service delivery)

No stand-alone or integrated policy or plan for child mental health

No stand-alone or integrated policy or plan for adolescent mental health

No stand-alone or integrated strategy/policy/plan for suicide prevention

The WHO report describes a national and jointly managed school based mental health prevention and promotion program functionality as “no”.

The WHO report describes a national and jointly managed Mental Health Awareness /Anti- stigma prevention and promotion program functionality as “no”.

Source: KAMMEL (K), *Rebuilding the Mental Health System in Iraq in the Context of Transitional Justice*, Vol. 11 No. 3, DePaul Journal of Health Care Law, 2015, pp. 376, 377.

“**The need for mental health legislation has plagued Iraq over the years**”

“Additionally, laws that include compassionate treatment of mentally ill and substance-addicted patients do not exist.”

4) Minor Situation

4.1. Education

Schools’ infrastructures are unsuitable, the level of learning outcomes is really low. It’s a threat to child protection but the government doesn’t provide the necessary means to improve the situation. This **deteriorating situation increases the vulnerability of children** to all the other threats they face.

Source: Norwegian Refugee Council Report on *Gaps in Formal Education in Iraq Education Consortium of Iraq*, December 2021, p.5.

“School infrastructure especially WASH facilities are typically not accessible for children with disabilities, and children’s safety is threatened en route to school by road accidents, stray dogs, checkpoints, and harassment, mainly from young men and boys, including other students. In most cases, students and teachers have no choice but to make do with the infrastructure that is present; **all stakeholders are dissatisfied with the quality of their school’s infrastructure.** The absence of needed infrastructure as well as insufficient, and low-quality infrastructure is limiting access to and quality of education”

Source: World Bank, *Building Forward Better to Ensure Learning for All Children in Iraq : An Education Reform Path*, Lahire, Nathalie Sedmik, Elisabeth El Ghali, Hana Addam, 30 July 2021, p.11.

“Very low learning outcomes in primary school show **that students largely do not comprehend age-appropriate materials** (USAID 2012). While the instructional time in Iraq is already short by international standards, many schools operate **in multiple shifts, partly as a result of infrastructure damages, which results in very low time spent on tasks and learning** (OECD 2014). This disadvantage lingers on, translating into large repetition rates (almost one-third of children attending secondary school are over-aged) and dropout rates (21 percent of children of secondary school age are no longer in school) in lower secondary schools, as well as low attendance rates in upper secondary schools (only around one-third of children of upper secondary age attend school) (UNICEF 2018).”

Source: UNICEF, *Iraq, Education*, 2018.

“Decades of conflict and under-investment in Iraq have destroyed what used to be the best education system in the region and severely curtailed Iraqi children’s access to quality learning. Today, **there are close to 3.2 million school-aged Iraqi children out of school.**”

“Out of school children are more **vulnerable to exploitation and abuse**, including child labour, recruitment by armed actors and early marriage.”

“Iraq’s national budget has in the past years allocated **less than 6% of its national budget** to the education sector, placing **Iraq at the bottom rank of Middle East countries.**”

Source: UNICEF, *The cost and benefits of education in Iraq*, 2017, p.9.

“The Iraqi education sector has reached a point where the basic provision of quality education to Iraqi children is now at risk. Capital government expenditure on education has been drastically **reduced**, despite the increasing needs due to demographic pressures and population growth. As of 2015-2016 in Iraq Centre, the number of primary schools with double or triple shifts has reached 4,361 schools (35.3% of the total), with an additional 1,665 secondary schools (30.6% of the total) running multiple shifts.”

4.2. Health

The Iraqi health system doesn't fight properly against inequalities, malnutrition and chronic diseases.

Source: Relief Web *Humanitarian Response Overview Dashboard for January to December 2022*, 6 February 2023.

Infographic that shows the lack of fundings accorded to child protection (7th line of the “KEY ACHIEVEMENTS BY CLUSTER” graphic)

KEY ACHIEVEMENTS BY CLUSTER						
CLUSTER / SECTOR	PEOPLE TARGETED	% TARGET REACHED	PEOPLE REACHED	# PARTNERS (ACTIVE / TOTAL)	FUNDING (US\$) REQUESTED	FUNDING (US\$) RECEIVED**
CCCM	250 K	88	221 K	3 / 7	15.2 M	8 1.2 M
EDUCATION	354 K	45	159 K	14 / 26	17.0 M	28 4.7 M
EMERGENCY LIVELIHOODS	49 K	48	23 K	8 / 35	10.6 M	71 7.5 M
FOOD SECURITY	336 K	58	195 K	3 / 32	54.4 M	35 19.3 M
HEALTH	388 K	100	623 K	19 / 29	46.8 M	100 59.6 M
PROTECTION, HLP & MA	630 K	100	672 K	26 / 44	65.3 M	62 40.5 M
CHILD PROTECTION	303 K	66	200 K	27 / 45	30.1 M	2 0.5 M
GENDER-BASED VIOLENCE	353 K	77	272 K	29 / 39	36.2 M	3 1.3 M
SHELTER & NFI	311 K	21	64 K	10 / 19	47.4 M	23 10.8 M
WASH	730 K	100	732 K	19 / 32	33.4 M	67 22.5 M
MPCA (CWG)	135 K	38	52 K	12 / 12	28.6 M	16 4.4 M
CCS	-	-	-	-	15.0 M	72 10.7 M

Source: UNICEF, *UNICEF Iraq Country Office Annual Report 2021*, 2021.

“Although **there are no major new sources of data**, modeled indicators of progress on newborn and under-five mortality continue to decrease compared to the 15 and 26 deaths per 1,000 live births baseline in the latest Multiple Indicator Cluster Survey 6 (MICS, 2018). **Significant inequities in mortality and undernutrition prevail across governorates**. Immunization coverage fluctuated in 2021, with monthly measles coverage ranging from 61 to 86 percent.”

Source: Médecins Sans Frontières, *Treating children with chronic diseases in Hawija, Iraq*, 26 August 2019 (available only in French).

“Les enfants de nos cliniques nous disent qu’ils craignent souvent de s’injecter de l’insuline à l’école. Nous avons observé des cas où des parents retirent leurs enfants de l’école parce qu’ils ont peur que leur enfant soit stigmatisé ou souffre d’une des complications aiguës du diabète, telle que l’hypoglycémie – un effet secondaire aigu et grave du traitement à l’insuline.”

[Translation]

“Children in our clinics tell us that they often fear injecting insulin at school. We have seen cases where parents **withdraw their children from school because they are afraid their child will be stigmatized or suffer from one of the acute complications of diabetes**, such as hypoglycemia - an acute and serious side effect of insulin treatment.”

Source: World Health Organization, *Maternal, newborn, child and adolescent health*, 2017.

“Neonatal mortality constituting 54% of under-5 mortality in Iraq and most of these losses are preventable with high-quality, evidence-based interventions delivered before and during pregnancy, during labour and childbirth, and in the crucial hours and days after birth. However, **inequity between urban and rural, educated and no or less educated mothers, geographical area and wealth quintile remains a contrast across all categories.**”

Source: UNICEF, *Iraq, Health and nutrition*, 2018.

“**One in every five children is stunted in Iraq. Chronic malnutrition is a major challenge** with long term effects. Malnourishment reduces children’s chances of survival, hindering health and growth, and is likely to have long-lasting harmful consequences for a child’s cognitive ability and his or her school performance. Infant and young child feeding (IYCF) practices in Iraq are **weak.**”

4.3. Security

Children face a **lot of violence** in Iraq, **due to armed conflicts but also customs**. They are exposed to intrafamilial/domestic violence, gender-based violence, violation of their rights, lack of child protection, child poverty and forced marriage, **without the benefit of appropriate justice**.

Source: UNICEF, *A crisis within a pandemic: the case of violence against children in Iraq*, 04 August 2021.

“According to the Multiple Indicator Survey (MICS6) 2018, **4 out of 5 children in Iraq experience violence at home or in school**. Despite the decrease of hostilities in Iraq, the culture of violence continues and children heavily bear the brunt.”

Source: Shafaq, ظاهرة العنف في المدارس العراقية .. أسباب متعددة ومعالجات بلا فائدة (translation: *The phenomenon of violence in Iraqi schools... Multiple causes and useless treatments*), 11 November 2022.

وبحسب دراسة لمنظمة الأمم المتحدة للطفولة (يونيسيف)، تبين أن 81% من الأطفال في العراق تعرضوا للتعنيف الجسدي أو النفسي.

وتشير الدراسة إلى أن "الأسر تميل لضبط سلوك الأطفال من خلال معاقبتهم، عندما يسيئون التصرف والسلوك ليتسنى لهم تنشئتهم "بطريقة ملائمة".

وكانت (يونيسيف)، حذرت من تبعات العنف المتماذي ضد الأطفال العراقيين، والذي يبلغ مستويات خطيرة، حيث ذكرت المنظمة في تقاريرها أن 4 من بين كل 5 أطفال بالعراق، يتعرضون للعنف والضرب في المنزل أو المدرسة.

وطالبت، الحكومة العراقية بتكريس آليات رصد ومتابعة لمرتكبي جرائم العنف والقتل بحق الأطفال وتقديمهم إلى المحاكمة، فالأطفال في العراق، بحاجة ماسة إلى حماية وضمن حقوقهم، وتوفير بيئة آمنة خالية من العنف وملائمة لتطوير قدراتهم وقابلياتهم على أتم حال. وأكدت المنظمة الأممية، بأنه ما من شيء يبرر العنف ضد طفل صغير، كما أن هذه الظاهرة لا بد من منعها وكبحها.

[Translation]

“According to a study by the United Nations Children's Fund (UNICEF), **it was found that 81% of children in Iraq have been subjected to physical or psychological violence.**

The study indicates that "families tend to control children's behavior by punishing them when they misbehave so that they can raise them in an appropriate manner."

And (UNICEF) had warned of the consequences of the prolonged violence against Iraqi children, which reached **dangerous levels**, as the organization stated in its reports **that 4 out of every 5 children in Iraq are subjected to violence and beatings at home or school.**

UNICEF called on the Iraqi government to dedicate monitoring and follow-up mechanisms for perpetrators of crimes of violence and murder against children and to bring them to trial. Children in Iraq need protection and guarantee of their rights, and the provision of a safe environment free of violence and appropriate for the development of their abilities and capabilities to the fullest. The UN emphasized that nothing justifies violence against a young child and that this phenomenon must be prevented and curbed.”

ويؤكد تربيون أن ظاهرة استعمال العنف ضد الأطفال ما تزال متفشية في العديد من المدارس العراقية، بالرغم من التعميمات الصادرة عن وزارة التربية والتي تمنع ممارسة التعنيف بمختلف أشكاله اللفظي والجسدي والنفسي ضد الأطفال

[Translation]

“Educators confirm that the phenomenon of using violence against children is still **widespread in many Iraqi schools**, despite the circulars issued by the Ministry of Education, which prohibit the practice of violence in all its **verbal, physical and psychological forms** against children.”

بالرغم من العقوبات القانونية لمرتكبي العنف ضد الطلبة والتلاميذ في المدارس، إلا أن هذه الظاهرة تتفاقم يوماً بعد آخر خصوصاً مع بداية كل عام دراسي جديد.

ويتعرض الطلبة والتلاميذ في المحافظات العراقية وخاصة في المدارس الابتدائية، للعقوبات البدنية واللفظية من قبل المعلمين والأهالي على حد سواء، ما يؤثر على صحة الأطفال الجسدية والنفسية وبقائهم ونموهم الطبيعي، وكذلك تؤثر في الأسرة والمجتمع، بالإضافة إلى تهديدها للصحة العامة.

وتنتشر على مواقع التواصل الاجتماعي مقاطع فيديو لأطفال مُعنفين باستمرار، ودائماً ما تعلن وزارة الداخلية عن إتخاذ الاجراءات بحق المعنفين، لكن العنف ضد الأطفال مستمر.

[Translation]

“Despite the legal penalties for perpetrators of violence against students and pupils in schools, this phenomenon is **exacerbated day after day**, especially with the start of each new academic year.

Students and pupils in the Iraqi governorates, especially in primary schools, are **subjected to physical and verbal punishments by teachers and parents alike, which affects children's physical and psychological health, survival, and normal growth, as well as affects the family and society, in addition to threatening public health.**

Videos of abused children are constantly spreading on social media, and the Ministry of Interior always announces that measures are being taken against abused children, but **violence against children continues.**”

Source: UN SC, *Children and armed conflict in Iraq*, Report of the Secretary-General S/2019/984, 30 January 2020, p.5, §23.

“Children were affected in multiple and compounding ways as a result of all six grave violations. During the reporting period, the United Nations verified **2,114 grave violations against children: 296 children were recruited and used, 1,722 were killed or maimed, 10 were subjected to rape and other forms of sexual violence and 86 were abducted.**”

Source: UNICEF, *Iraq, Child protection*, 2018.

“Justice for Children: A lack of implementation of the law and a system that is retributive rather than restorative, including an overuse of deprivation of liberty, poor conditions and lack of services while in confinement, a low age of criminal responsibility, and a significant increase in the number of children detained since December 2015 creates **a situation of significant deprivation for children in detention.**

Gender Based Violence (GBV): **Pervasive GBV against women and girls**, and in particular sexual violence and exploitation, **family violence, forced and child marriage**, continue to take place. **Fear Of harassment, and stigmatization**, including honour killing, remain real obstacles to seeking justice for GBV survivors.

Grave Violations of Child Rights: Conflict related violence has continued unabated, exacerbated by years of conflict in the country. According to the UN’s Monitoring and Reporting Mechanism (MRM) in Iraq, **killing and maiming of children is the most widespread grave violation of child rights.** In addition, the UN has verified 271 cases of child recruitment and use by parties to the conflict since 2014.”

Source: Human Rights Watch, *Iraq events in 2021*, 2021.

“While Iraq’s penal code criminalizes physical assault, Article 41(1) allows a husband to “punish” his wife and parents to discipline their children “within limits prescribed by law or custom.” UNICEF surveys have found more than **80 percent of children are subjected to violent discipline.**”

Source: UN, Press release, *Committee on the Rights of the Child considers Iraq's reports*, 22 January 2015.

“MARIA RITA PARSI, a member of the working group, [...] pointed out that the Iraqi report showed a **very high and increasing rate of early marriages: in 2011, 22% of girls under 19 were married**, compared to 21% in 2007. A draft law would allow marriage from the age of 9: this would be paedophilia, the expert warned.”

Source: UNICEF, *UNICEF Iraq Country Office Annual Report*, 2021.

“A joint Ministry of Planning, UNICEF and the World Bank assessment of COVID-19 socio-economic impacts on poverty and vulnerability estimates that **the poverty rate increased from 20 per cent in 2018 to 37 per cent in 2020**, with high exclusion of poor children and young people, mainly due to fragmented social protection schemes.”

4.4. Child Labour

Iraqi children are also subjected to child labour. They feel the need and the family pressure to participate in **subsidizing the economic needs of their families.** The economic situation, lack of identity papers and the humanitarian emergency force them to opt out of the school system and to work in often **dangerous jobs.**

Source: UNICEF, *UNICEF in Iraq Annual Report 2022*, February 2023, p.16.

“81% of children under 14 are exposed to violent discipline. 7% of children and adolescents aged 5–17 years are engaged in child labour.”

Source: Shafaq, لا طفولة في العراق.. براعم يمارسون الخطر ويواجهون الاستغلال, (Translation: *There is no childhood in Iraq.. Baraem practice danger and face exploitation*), 20 November 2022.

أي واقع مأساوي يعيشه أطفال العراق، خلال العقدين الأخيرين.. حرمان فقر نزوح عمالة تجنيد تحرش استغلال، فضلاً عن المتاجرة بهم، حتى بات البلد الذي يأويهم ضمن أخطر 10 دول لعيش الأطفال في العالم، وفق تقارير دولية

وفي استطلاع أجرته لجنة الإنقاذ الدولية، أشرت معدلات عمالة مرتفعة في العراق، وتستمر بالوقوف في وجه تعلم الأطفال وعيش طفولتهم وممارسة حقوقهم الأساسية.

وأظهرت البيانات الجديدة التي حصلت عليها اللجنة، أن غالبية الأطفال الذين شملهم الاستطلاع في شرق الموصل يعملون في ظروف غير آمنة، وأن 95% من الأطفال يفتقدون لوثائق الهوية الأساسية، وأكثر من نصف الأسر التي شملها الاستطلاع لديها طفل أو أكثر منخرط في العمل.

أدى بطء التعافي الاقتصادي بعد انتهاء الصراع إلى لجوء العائلات إلى الاعتماد على عمالة الأطفال، التي تمنع الأطفال العراقيين من ممارسة حقوق الطفولة الأساسية.

ونوهت لجنة الإنقاذ الدولية، في تقرير لها، ورد لوكالة شفق نيوز، إلى "استمرار الارتفاع المقلق في معدلات عمالة الأطفال في العراق في حرمان الأطفال من حقوقهم الأساسية تزامناً مع نفاذ خيارات الأسر في تلبية الاحتياجات المعيشية الأساسية".

[Translation]

“What a tragic reality Iraqi children have experienced during the last two decades. **Deprivation, poverty, displacement, labor, recruitment, harassment, exploitation, as well as trafficking.** The country that shelters them is **among the 10 most dangerous countries for children** to live in in the world, according to international reports.

In a survey conducted by the International Rescue Committee, I noted high **children employment rates in Iraq**, which continue to stand in the way of them learning, living their childhood, and exercising their basic rights.

New data obtained by the committee showed that the majority of children surveyed in east Mosul work in unsafe conditions, **95% of children lack basic identity documents**, and more than half of the families surveyed have one or more children involved in work.

The slow post-conflict economic recovery has led families to rely on **child labor**, which prevents Iraqi children from exercising basic childhood rights.

In a report received by Shafaq News agency, the International Rescue Committee noted, "The alarming rise in child labor rates in Iraq continues to deprive children of their basic rights, coinciding with the exhaustion of families' options to meet basic living needs".”

ويتعرض الأطفال المنخرطون في مجال العمل لخطر كبير جراء حرمانهم من فرص التعليم مما قد يؤثر بشكل كبير على تطورهم وحياتهم بشكل عام. كما أنهم يعانون اجتماعياً من وصمهم بالعار وانعزالهم، وهم أكثر عرضة للمشاكل المتعلقة بالسلامة والحماية بما في ذلك الإساءة والمضايقات.

أجبر محمد على ترك المدرسة في سن التاسعة والآن، وهو في سن الرابعة عشرة، يعمل في جمع النفايات.. مخبراً لجنة الإنقاذ الدولية أنه "لم يذهب إلى المدرسة منذ خمس سنوات ولا يرغب في إعادة التسجيل".

وأضاف محمد والحزن يملأ تفاصيل وجهه: بسبب الوضع الاقتصادي والنزوح، لا أرغب في إعادة الالتحاق بالمدرسة؛ أريد "إعالة أسرتي ولا يوجد أحد آخر ليقوم بمساعدتهم"، مردفاً بالقول: "لا أحب هذا العمل، ولكنني بحاجة إليه".

[Translation]

“Children involved in work are exposed to a **great risk of being deprived of educational opportunities**, which may greatly **affect their development and life** in general. They also suffer from **social stigma and isolation** and are more vulnerable to safety and protection issues including **abuse and harassment**.

Mohammed was forced to leave school at the age of nine and now, at the age of 14, he works as a waste collector... telling the International Rescue Committee that he has "not been to school for five years and does not wish to re-enroll".

Muhammad added, with sadness filling the details of his face: Because of the economic situation and displacement, I do not wish to re-enroll in school; I want to provide for my family and there is no one else to help them," adding, "I don't like this job, but I need it".”

والعراق من الدول الموقعة على اتفاقية الأمم المتحدة لحقوق الطفل، وينص على التعليم الابتدائي الإلزامي لجميع الأطفال في دستوره.

وعلى الرغم من الحماية التي يوفرها القانون للأطفال العراقيين، إلا أن الواقع يختلف كثيراً بالنسبة للعديد من الأطفال في جميع أنحاء البلاد.

[Translation]

“Iraq is a signatory to the United Nations Convention on the Rights of the Child, and stipulates compulsory primary education for all children in its constitution.

Despite the protections provided by law to Iraqi children, the **reality is very different for many children across the country.**”

وفي دراسة استقصائية جديدة أجريت في خمس مناطق في شرق مدينة الموصل، لاحظت لجنة الإنقاذ الدولية، أن 90٪ من مقدمي الرعاية أفادوا بوجود طفل أو أكثر منخرط في مجال العمل، بينما أفاد 85٪ من الأطفال أنهم لا يشعرون بالأمان في مكان عملهم. واصفين حالات التحرش وعدم امتلاك المعدات المناسبة لحماية أنفسهم أثناء العمل في المصانع أو في الشوارع.

وبعد ما يقرب من خمس سنوات على إعلان انتهاء العمليات العسكرية وطرد تنظيم داعش، ما تزال الظروف الاقتصادية في الموصل مزرية للعديد من العائلات، بما في ذلك أولئك الذين نزحوا داخل البلاد والذين عادوا إلى مناطقهم الأصلية بعد أن نزحوا أثناء النزاع.

وقامت لجنة الإنقاذ الدولية، بإحصائية تضم 211 أسرة في أحياء التسعين والانتصار والعرباشية والسماح واليرمجة في شرق الموصل، وأجرت مسوحات إحصائية تضم 265 طفلاً تم تصنيفهم على أنهم منخرطون في مجال العمل.

وأظهرت النتائج أن عمالة الأطفال هي آلية تكيف سلبية شائعة للعائلات في هذه المناطق، كجزء من كفاحهم لإعادة بناء حياتهم، وذلك ناجم عن محدودية توافر فرص كسب العيش، وعدم حيازة الوثائق - مثل بطاقات الهوية الوطنية أو شهادات الميلاد - وسوء الظروف المعيشية.

[Translation]

“In a new survey conducted in five districts in eastern Mosul, the International Rescue Committee noted that **90% of caregivers reported having one or more children involved in work, while 85% of children reported not feeling safe in their workplace** describing cases of harassment. and not having the proper equipment to protect themselves while working in factories or on the streets.

Nearly five years after the announcement of the end of military operations and the expulsion of ISIS, **economic conditions in Mosul remain dire for many families**, including those displaced within the country and those who have returned to their areas of origin after being displaced during the conflict.

The International Rescue Committee carried out a census of 211 families in the neighborhoods of Al-Taseen, Al-Intisar, Al-Arabashiya, Al-Samah, and Al-Yarmojah in eastern Mosul, and conducted additional surveys of 265 children who were classified as engaged in the field of work.

The findings showed that **child labor** is a common negative coping mechanism for families in these areas, as part of their struggle to rebuild their lives, due to limited availability of livelihood opportunities, **lack of documentation** - such as national identity cards or birth certificates - and **poor living conditions.**”

Source: International Rescue Committee, *High child labor rates in Iraq continue to disrupt children’s education, childhood and basic rights, the IRC warns*, 20 November 2022.

“Around 75% of the children surveyed reported working in informal and **dangerous roles such as trash collection, daily construction labor, and collecting scrap metals.**”

“Children engaged in labor are at high risk of disrupted education which can **significantly affect their development and life chances.** They also face **social stigma and isolation** and are at greater risk of protection concerns including **abuse and harassment.**”

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