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# HUMAN RIGHTS SPECIAL REPORT

## Demonstrations in Iraq

1-9 October 2019

Baghdad, Iraq



Human Rights Office  
United Nations Assistance Mission for Iraq (UNAMI)  
بعثة الأمم المتحدة لمساعدة العراق (يونامي)

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## I. Executive Summary

This special report, prepared by the Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI), outlines preliminary findings and key human rights concerns regarding the demonstrations that occurred in Iraq from 1 to 9 October 2019. Violence during demonstrations caused at least 157 deaths and 5,494 injured people, including members of the Iraqi Security Forces.<sup>1</sup> Fact-finding conducted between 1 and 16 October indicates the occurrence of potentially serious violations of human rights.<sup>2</sup>

UNAMI received credible reports of violations of the right to life, including deliberate killings of unarmed protesters and excessive use of force by units deployed to manage the demonstrations. This report also highlights concerns regarding the widespread use of repressive measures to limit publicly available information on the demonstrations, including arbitrary arrests, threats and harassment, confiscation of equipment, deletion of footage, attacks against media outlets as well as blanket restrictions on the dissemination of information through shutting down internet and blocking social media.

The international and domestic legal framework applicable in Iraq guarantees the right to life, the right to liberty and security of persons as well as the rights to freedom of expression and peaceful assembly, requiring the Government not only to allow assemblies to take place but also to enable peaceful protest, with measures in place to protect demonstrators.

UNAMI urges the Government to take concrete steps to prevent human rights violations and abuses during future demonstrations, to ensure accountability and to facilitate an enabling environment for the general public to exercise its rights to peaceful assembly and freedom of expression.

UNAMI calls on all demonstrators to exercise their right to assembly in peaceful and non-violent ways, in keeping with the law.

## II. Mandate

This report is prepared pursuant to United Nations (UN) Security Council resolutions. Security Council Resolution 2470 (2019) mandates UNAMI to ‘promote accountability and the protection of human rights, and judicial and legal reform, with full respect for the sovereignty of Iraq, to strengthen the rule of law in Iraq [...]’.

## III. Methodology

The information contained in the report is based on 145 interviews conducted by UNAMI from 1 to 16 October 2019 - by phone and in person - with sources in Iraq, including, *inter alia*, human rights monitors, journalists, civil society activists, protesters, family members of killed demonstrators and other relevant sources. Several sources provided UNAMI with photographic and video footage. All interviews were carried out by staff trained to conduct interviews in an open-ended manner. The interviews were assessed for credibility and reliability based on the level of detail provided and consistency of information. UNAMI also monitored media and social media during the demonstrations.

Additionally, UNAMI met with the Parliamentary Committee on Human Rights, the Ministries of Interior, Health and Foreign Affairs, the High Judicial Council and the Iraqi High Commission for Human Rights (IHCHR).

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<sup>1</sup> Investigative Committee report, released on 22 October 2019.

<sup>2</sup> This report does not make a precise legal determination of whether human rights violations took place during or after the demonstrations.

UNAMI's ability to gather information freely was limited by a block on the internet/social media, a curfew preventing movement to demonstration sites, and a pervasive environment of fear that prevented people from sharing information.

UNAMI was unable to conduct individual interviews with members of the security forces or employees of public hospitals due to restrictions in place concerning the release of information to external stakeholders, including United Nations human rights representatives.

#### **IV. Background**

Small, peaceful demonstrations took place in recent months in Baghdad and southern governorates, with protestors expressing concerns about unemployment. A general call to demonstrate began appearing on social media in late July. No specific organization appeared to be leading the October demonstrations and no individual or entity submitted formal notice to the Government of its intention to conduct the assembly. The Government was nevertheless aware in advance of the demonstrations and had deployed security forces in large numbers on 1 October.

From 1 October, demonstrations took place in Baghdad and several governorates in southern and central Iraq, including Babil, Dhi-Qar, Diyala, Karbala, Missan, Muthana, Najaf, Qadisiya and Wasit, initially beginning as protests against corruption, unemployment, housing issues and lack of basic services. The demonstrators predominantly comprised male youth aged 15 to 35, as well as civil society activists. While grievances and frustrations have motivated demonstrations in various regions of Iraq since at least 2011, these are considered the first mass demonstrations against the current Government, nearly a year after its formation.

The demonstrations rapidly spiraled into violence. Dynamics of demonstrations varied according to their location, with clashes between demonstrators and security forces intensifying in the first few days and gradually subsiding in the second week. On 2 October, the Government imposed a city-wide curfew in Baghdad (effective 3 October and lifted on 5 October). Provincial authorities imposed curfews in other locations, including the cities of Nasiriya, Al-Amarah, and Hilla.

According to multiple sources, security forces - reporting to both the Ministry of Interior and Ministry of Defence - were tasked by the National Operations Command to manage the demonstrations and respond to demonstrators. Security forces included Anti-Riot Police, Counter-Terrorism Forces, Police Special Forces, Federal Police, SWAT teams, the Facility Protection Service (FPS), the Police Rescue Force, intelligence officers and units tasked with providing protection in the former International Zone.

In terms of attribution, this report could not distinguish between the various uniformed Iraqi Security Forces (ISF) deployed during the demonstrations given the array of uniforms, the absence of identifying emblems, chaos at the demonstration sites, distance between security forces and demonstrators as well as darkness - all of which made identification challenging. Several sources also attributed potential violations, including use of live ammunition, to armed men described as 'as dressed in black with covered faces'.

## **V. Allegations of Excessive Use of Force and Deliberate Killings during Demonstrations**

### *Summary of deaths and injuries*

UNAMI documented demonstration-related deaths and injuries in Baghdad, Dhi Qar, Diwaniya, Missan, Wasit, Najaf and Babil in the first week of October. According to the report of the Investigative Committee, demonstration related violence resulted in 157 deaths and 5,494 injured.<sup>3</sup>

Multiple witnesses described deaths attributable to bullets impacting the head and upper torso areas. Injuries included respiratory distress from the use of tear gas, in addition to wounds from metal and rubber bullets and from shrapnel that likely came from the use of disorientation devices.

Despite requests to the Ministry of Health and public hospitals, UNAMI has not been granted access to official data on the number and circumstances of killings and injuries. Officials reported that the National Operations Command had issued an order that information should not be shared.<sup>4</sup>

### *Use of lethal and less-lethal weapons by security forces*

International human rights law permits the use of force by law enforcement agencies only where it serves a legitimate purpose, when all possible preventative and precautionary measures have been taken, when it is strictly necessary and when it is proportionate to the seriousness of the offence, the risk of harm to others and the purpose to be achieved.<sup>5</sup>

Information obtained indicates that security forces in Baghdad employed live ammunition to disperse demonstrators from the first day of demonstrations as well as the inappropriate use of less-lethal weapons, including tear gas, rubber bullets and disorientation devices.

In the paragraphs below, UNAMI highlights the context in which deaths and injuries occurred in Baghdad and Nasiriya (the two cities that recorded the highest numbers of death and injury during the demonstrations).

### *Baghdad: 1 to 9 October*

On 1 October, approximately 3,000 people assembled in Tahrir Square in Rusafa district of central Baghdad, from 10:00am onwards. Demonstrators attempted to cross the Al Jumhuriya bridge that connects Tahrir square area to the former International Zone. While the demonstrations initially began as peaceful, participants attempted to push through a line of security forces stationed at the beginning of the bridge, throwing water bottles and stones.

At approximately 3:00pm, security forces directed water cannons at the front lines of demonstrators before using tear gas, disorientation devices and rubber bullets, with reports that tear gas canisters were fired at the bodies of demonstrators. The situation further escalated with multiple sources reporting they witnessed the use of live ammunition.

Sources present on the ground also expressed shock at the 'brutality' of the force deployed and the speed at which security forces intensified their response. No sources described hearing any warnings or instructions to clear the area prior to attempts to disperse the crowd by using force. In addition, it was reported that the tactics used by the security forces sowed confusion - e.g. bullets landing towards the back of the crowd resulted in demonstrators pushing forward.

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<sup>3</sup> Investigative Committee report, released on 22 October 2019.

<sup>4</sup> UNAMI meeting with an official of the Ministry of Health on 14 October 2019, supported by information obtained from other sources.

<sup>5</sup> UN Basic Principles on the Use of Force and Firearms (1990), Principle 5 and Code of Conduct for Law Enforcement Officials (1979), Art. 3.

From 2 to 5 October, protests continued in Rusafa district, with people expressing overall frustration with the Government and outrage over the violent response by security forces to demonstrators. The imposition of a city-wide curfew and increased security pushed demonstrators into areas east of Tahrir square, including Teyran and Gilani squares and towards Sadr City. Smaller scale demonstrations also occurred in other areas, including in Karrada and Kadamiyah districts, and on the road towards Baghdad international airport.

Sources described continued use of live ammunition to disperse demonstrators as well as the use of tear gas and sound/flash bombs. They described demonstrators being shot on the streets and observing victims, both deceased and alive, with bullet and shrapnel wounds. Family members of killed demonstrators described deaths attributed to shots to the head and chest.

Demonstrators described the burning of tires as an action to create smoke in order to hide from 'snipers' and to block tear gas. Reportedly, demonstrators in Rusafa district also blocked roads into the center of Baghdad, attempted to set fire to several buildings, burned several military vehicles, and attacked security forces with stones, water bottles and knives. Security forces were furthermore attacked with Molotov cocktails<sup>6</sup>, causing serious injury. No information indicated that any demonstrators carried any firearms in Rusafa district.

From the night of 5 October until 9 October, demonstrations remained largely contained inside Sadr City, predominantly in the area bordering Rusafa district, with ongoing clashes between the demonstrators and security forces. Reportedly, demonstrators in Sadr City burned three military vehicles and attacked a police station. Credible reports emerged that a small minority of men wielding sticks, rocks and knives were among the crowds in later demonstrations.

On 8 October, the Minister of Interior stated that the army had been replaced by Federal Police in Sadr City. Additionally, the military acknowledged the excessive use of force and the Commander-in-Chief had ordered accountability actions to be taken against those responsible.<sup>7</sup>

#### *Killings of demonstrators by 'unknown snipers'*

UNAMI has received multiple credible and consistent reports indicating that unarmed demonstrators were targeted deliberately by individuals positioned on roofs and in vacant buildings, widely reported as 'snipers'.<sup>8</sup> For example, several witnesses described a shooter, or shooters, operating in the area around Gilani square and the Nakhil mall in Baghdad on 4 October.

They also described being in the vicinity of live fire, including while attempting to rescue wounded persons and seeing fellow demonstrators, including friends and relatives, struck down and killed by bullets. Family members reported the death of relatives from gunshots, including shots to the head. Sources furthermore reported a sense of chaos when the shootings started, with security forces also taking cover.

#### *Nasiriya, Dhi Qar: 1 to 5 October 2019*

From 1 to 5 October, violence during demonstrations in Nasiriya, Dhi Qar governorate, killed at least 21 people - 19 demonstrators and two security officers. All demonstrators were killed by gunshots.

While demonstrations began peacefully, the situation escalated from 2 October after demonstrators gathered to set fire to, *inter alia*, buildings belonging to several political movements. Live ammunition, tear gas and water cannons were used to disperse demonstrators.

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<sup>6</sup> A Molotov cocktail is a homemade incendiary weapon made of a glass bottle filled with a flammable liquid and usually fitted with a wick.

<sup>7</sup> Statement by Minister of Interior: <https://moi.gov.iq/index.php?name=News&file=article&sid=9960> (accessed 18 October 2019).

<sup>8</sup> UNAMI accessed several videos indicating the use of live ammunition against demonstrators.

## **VI. Allegations relating to Medical Treatment**

The scale of casualties, particularly in Baghdad, overwhelmed hospitals and medical staff during the demonstrations. UNAMI commends the efforts taken by Iraqi medical staff and volunteers to rescue and treat wounded demonstrators and ISF members, sometimes placing themselves at personal risk.

Sources reported that demonstrators threw rocks at ambulances in the mistaken belief that security forces were using them to transport demonstrators elsewhere for arrest.

There were also reports of shootings at ambulance drivers by the security forces and allegations that security forces entered hospitals in Baghdad to intimidate medical staff as well as to question and arrest wounded demonstrators. It was reported that, due to fear of arrest, some people discharged themselves immediately after receiving treatment or did not seek medical treatment at all.

The Ministry of Health informed UNAMI that it received no reports or allegations that security forces entered hospitals, intimidated health workers, interfered in the provision of healthcare, arrested patients and/or any other allegations of this nature.<sup>9</sup>

## **VII. Allegations relating to Arrest and Detention**

From 1 to 9 October, security forces arrested significant numbers of demonstrators across Iraq - raising concerns that those arrested may have been subjected to a policy of mass arrest. Hundreds of demonstrators were arrested in Baghdad and substantial numbers in other governates, including Dhi Qar and Basra. IHCHR reported that it documented 1055 demonstration-linked arrests across Iraq. According to the IHCHR, most arrests occurred in Baghdad (503), followed by Dhi Qar (154), Qadisiya (131), Wasit (115), Basra (72), Babil (31), Najaf (14), Diyala (13), and Missan and Karbala (11 each).

The head of the High Judicial Council informed UNAMI that the judiciary did not issue warrants to arrest protestors but that the security forces arrested demonstrators upon witnessing a crime, as provided for in domestic law. The Iraqi Criminal Code contains very broad provisions that criminalize participation in an assembly of five or more persons intended, *inter alia*, 'to influence the affairs of the public authorities'. It cannot be excluded that people were arrested based purely on their presence in an area where demonstrations were taking place.

Concerningly, UNAMI received accounts of searches of individuals, raids on homes and private property without warrant as well as arrests of individuals from their homes. While unable to identify the authorities carrying out these arrests, eyewitnesses described them as armed men wearing plain, black clothes without identifiable insignia who covered their faces with black masks.

On 16 October, the High Judicial Council confirmed that almost all demonstrators had been released unconditionally and without charge from detention.<sup>10</sup> Twenty-one people remained in detention on criminal charges, such as the burning of army vehicles, the assault of ISF members and the possession of incendiary or explosive materials.

Information obtained by UNAMI indicates that some demonstrators were released upon a payment, sometimes described as bail. Reports on the average length of detention varied but most detainees remained in custody for periods ranging from several hours up to two or three days, or for longer periods. Allegations that a small number of demonstrators had been arrested and charged under Article 4 of the Federal Anti-Terrorism Law were also received.

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<sup>9</sup> UNAMI meeting with the Deputy Minister of Health on 14 October 2019, Baghdad.

<sup>10</sup> UNAMI meeting with the head of the High Judicial Council on 16 October 2019, Baghdad.

While security forces transferred most arrested demonstrators to registered police stations, UNAMI is concerned by reports that detained demonstrators may also have been transferred to unofficial places of detention. For example, on 6 October, men described as 'militia' arrested approximately 100 men and boys from public places in Nasiriya (Dhi Qar) and transferred the detainees to Imam Ali military base. Most of the detainees were released within four days. Four detainees were held for longer periods, but all had been released at time of writing.

In another incident in Baghdad on 6 October, unknown armed elements (again described as 'militia') arrested approximately thirteen persons gathered for a press conference. The unknown armed elements reportedly transferred them to a location in the neighborhood of Mahmoudiya road. As of 20 October, two persons from the group remained in detention.

Statements were also received from family members unable to locate relatives, detained by unknown armed elements, due to an inability to access information on their whereabouts or fates. The Iraqi Bar Association published a statement requesting several Government and security entities to locate a lawyer allegedly 'kidnapped by an unknown group' during demonstrations in Missan governorate on 4 October.

Several protestors alleged ill-treatment during transfer to places of detention and while in detention. UNAMI also received reports that demonstrators were asked to sign pledges not to participate in future demonstrations as a requirement for release.

### **VIII. Allegations of Violations of the Right to Freedom of Expression**

UNAMI documented a series of measures which appeared to be aimed at repressing coverage of the October demonstrations, including attacks against media outlets, orders not to film or cover the demonstrations, arbitrary arrest of journalists, harassment, intimidation, illegal confiscation of equipment, deleting video footage or photographs, and the blocking of internet and social media.

Five raids of satellite television channels in central Baghdad, covering the demonstrations, were documented. In each of the five raids, witnesses consistently described the men as 'wearing black uniforms without identifiable insignia and covered faces'. The raids took place on 5 October and involved armed men entering the premises, assaulting staff members and forcing them to lie on the floor. During the incidents, the armed men ransacked the premises, stole hard drives and computers and set fire to the building. These accounts are supported by video evidence viewed by UNAMI. Most of the channels resumed broadcasting the following day via offices in Erbil or outside of Iraq.

Multiple and consistent accounts from journalists and media workers in various parts of Iraq included credible allegations of arbitrary arrest, threats, intimidation and harassment. Journalists interviewed by UNAMI in different parts of the country provided consistent accounts of security forces ordering them not to film the demonstrations and arresting or beating them if they did. For example, on 2 October a correspondent and a cameraman were arrested and detained because they were broadcasting live. Due to fear of arrest and other serious repercussions, several journalists and human rights activists reported that they relocated within Iraq, stopped their work on the demonstrations or self-censored.

Several journalists reported being stopped by security forces and instructed to delete footage of demonstrations under threat of arrest and/or confiscation or destruction of camera equipment. Demonstrators also reported being stopped by security forces who searched their mobile phones for communications, photographs and videos of demonstrations. For example, on 7 and 8 October, armed men reportedly entered coffee shops in Sadr City and demanded young men to hand over their mobile phones. Those with films or photographs taken at the demonstrations were arrested and detained.



The Government blocked access to social media on the afternoon of 2 October, before blocking the internet entirely from 3 October until 9 October (when authorities restored access to the internet from 8:00 to 3:00pm daily, except for social media which remains blocked at the time of writing).<sup>11</sup>

These accounts suggest coordinated actions to suppress information on the demonstrations. These allegations require investigation, noting that media coverage is critical to the freedom of expression, both with respect to the rights of journalists to impart information and the right of the public to seek and receive information.<sup>12</sup>

UNAMI also notes the challenges faced by journalists covering the demonstrations. The use of force by security forces and overall violence placed journalists in the vicinity of tear gas, live ammunition and at the risk of arrest.

## **IX. Allegations of Killings, Threats and Intimidation of Human Rights Defenders**

UNAMI received consistent accounts of human rights defenders receiving explicit warnings and death threats not to participate in demonstrations. The human rights environment in Basra was particularly repressive, including the killing of two civil society activists as well as multiple reports of threats to other activists. On 2 October, unidentified gunmen shot the two civil society activists in their home in Basra after their participation in a demonstration earlier that day. In a press conference, the father of one of the victims stated that the couple had been targeted for their well-known activism and participation in demonstrations. On 12 October, 200 youths gathered in Basra to conduct a peaceful and silent protest in memory of the couple. They carried banners that read 'we condemn the crime of killing demonstrators'.

Human rights defenders also informed UNAMI about incidents of harassment, arbitrary arrest and ill-treatment. For example, a civil society activist fled Baghdad after 'masked men' entered his home in the early hours of 3 October. He had left the house shortly beforehand, having received a tip off that a 'militia group' was searching for him. Other activists reported that 'unknown men' had approached their families, co-workers and neighbors concerning their whereabouts.

UNAMI also received accounts alleging that security forces had prepared 'watchlists' containing names of journalists, human rights defenders and civil society activists - believed to be involved in the demonstrations. Protesters, activists, and journalists reported staying away from home to avoid arrest. While such lists would have no legal basis, even rumors of such actions adversely contribute to an environment of fear and limit democratic space, particularly when considered alongside the use of force against demonstrators and coordinated efforts to limit information and the freedom of expression.

## **X. Official Response**

As the demonstrations were under way, government officials, political and religious leaders released several public statements. While key officials, including the Prime Minister, affirmed the right to peaceful demonstrations guaranteed under the Iraqi Constitution, statements also focused on crimes and violence allegedly committed by protestors, including carrying banners displaying slogans that are punishable by law and threatening public order and civil peace. Government and security officials

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<sup>11</sup> [www.netblocks.com](http://www.netblocks.com), last accessed 18 October 2019.

<sup>12</sup> See statement of David Kaye, the UN Special Rapporteur on freedom of expression concerning general network shutdowns: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24057&LangID=E>.

continued to stress that commanders did not order security forces to open fire at the protesters and that instructions had been given to the security forces not to use live ammunition.<sup>13</sup>

Government officials generally expressed their willingness to engage with 'peaceful' demonstrators on their 'legitimate' demands.<sup>14</sup> In this context, on 4 October, the representative of Grand Ayatollah al-Sistani called on the authorities to take practical and clear steps on the road to genuine reform. He attributed the greatest responsibility to Parliament with its legislative and oversight authority, also highlighting the failure of judiciary and supervisory bodies to fight corruption<sup>15</sup>. On 11 October, the representative of Grand Ayatollah al-Sistani stated that the Government and its security forces are responsible for the heavy bloodshed and stressed the need for a credible investigation. Certain political leaders called for members of Parliament to suspend their participation in session until the Government presents a program meeting the people's demands. Others called for the resignation of the Government to be followed by early elections under supervision by the United Nations.<sup>16</sup>

Against this backdrop, the Government pledged a series of reforms. In a session on 8 October, Parliament voted on a package of measures addressing, *inter alia*, youth unemployment through training programs and the provision of a monthly stipend for families living below the poverty line. It suspended the Provincial Councils (who have exceeded their legal term), declared the termination of the Inspector General offices<sup>17</sup> and decided to consider all victims of the recent protests as martyrs, compensating them accordingly, and to release all detainees who have not violated public property.<sup>18</sup> Soon after, the Council of Ministers presented a second thirteen-point package of measures focusing on, *inter alia*, subsidies and provision of housing for the poor. Measures should be implemented within three months, with implementation monitored by governorate-level committees. On 16 October, the High Judicial Council announced the establishment of a central Anti-Corruption Criminal Court set up to deal with 'major' cases.<sup>19</sup> The Prime Minister also announced a three-day mourning period commencing on 10 October.

From the outset of the demonstrations, statements by Government officials and religious leaders also called for investigations into all violence during the protests.<sup>20</sup> On 12 October, the Prime Minister announced the formation of an Investigative Committee to identify perpetrators of violence during the recent protests and bring them to justice.<sup>21</sup> On 22 October, the Investigative Committee released its findings, *inter alia*, acknowledging the excessive use of force and recommending disciplinary and judicial investigations for a number of individuals identified. UNAMI welcomes the release of the report as a step towards accountability and urges justice for all victims of violations.

## **XI. Conclusion**

UNAMI's interim findings indicate that serious human rights violations and abuses have been committed in the context of the demonstrations in Iraq. While dynamics of the demonstrations differed according to the location - the number of dead, the extent and scale of injuries inflicted on demonstrators, all suggest that Iraqi security forces have used excessive force against demonstrators in Baghdad and elsewhere in Iraq.

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<sup>13</sup> See for example the televised speech by President Salih on 7 October, a news conference with the spokesperson of the Ministry of Interior on 6 October and a televised speech by Prime Minister Abdul-Mahdi on 9 October.

<sup>14</sup> See for example the televised address to the protestors by Speaker al-Halbousi on 4 October, inviting the protestors for discussion.

<sup>15</sup> Friday sermon delivered in Karbala on 4 October 2019 by the representative of Grand Ayatollah al-Sistani.

<sup>16</sup> See statements by various political leaders.

<sup>17</sup> Parliament decided to annul the Coalition Provisional Authority Order No. 57 of 2004 and the Legislative Order No. 19 of 2005.

<sup>18</sup> See for example nationally televised address by Prime Minister Abdul-Mahdi to the Iraqi people on 9 October 2019.

<sup>19</sup> High Judicial Council, press release on 16 October 2019, see <https://www.hjc.iq/view.6069/> (accessed 18 October 2019).

<sup>20</sup> See for example national televised address by President Salih.

<sup>21</sup> Statement by Prime Minister Abdul-Mahdi on 12 October 2019.

UNAMI also notes that in some cases, casualties may have arisen due to a lack of training and coordination among security forces, particularly those who may not have experience policing large public gatherings. In this regard, UNAMI recalls that the principle of precaution requires that all feasible steps be taken in planning, preparing and conducting an operation related to an assembly in order to avoid the use of force or, where force is unavoidable, to minimize its harmful consequences. This is particularly relevant as the escalation in the use of force on 1 October seems to have contributed to increasing tensions between demonstrators and security forces, which in turn intensified the violence.

The instances of mass arrest and detentions, alongside intimidation and harassment of demonstrators, journalists and activists, attacks against media outlets and the blocking of internet/social media seem to have been used as tools to deter participation in the demonstrations as well as to repress reporting and activism around peaceful expressions of dissent. These measures limit not only the freedoms of expression and movement, but also contribute to a climate of intimidation and fear - leading to a reduction in democratic space.

Given the announcement of continued demonstrations in the near future, UNAMI strongly encourages the Iraqi authorities to draw lessons learned and take concrete steps to prevent violence and enable future peaceful demonstrations. Taking note of the release of the findings of the Investigative Committee, UNAMI underlines the critical importance of seeking accountability for perpetrators, ensuring redress for victims and adopting preventive and protective measures.

## **XII. Recommendations**

While acknowledging the steps already taken by the Government of Iraq, based on the preliminary findings of this report, UNAMI provides the following recommendations:

### **1. Prevention of future human rights violations and abuses during demonstrations**

#### *Use of force*

- Establish clear guidelines based on international standards on the use of force<sup>22</sup>, which should always be a measure of last resort and guided by the principles of necessity, proportionality and legality, and issue clear instructions to all law enforcement personnel prior to the next demonstration.

#### *Preparation, management and training*

- Ensure that command structures and operational responsibilities for demonstrations are well-defined and publicly known and that law enforcement personnel are clearly and individually identifiable.
- Develop operational plans to enable future peaceful demonstrations while avoiding the use of force and preventing violations of the different rights, considering:
  - Public safety to protect the population and property from foreseeable harm;
  - The rights, health and safety of law-enforcement personnel;
  - Safe access to healthcare for demonstrators and security forces, and protection of health care providers.
- Send clear public messaging that informs crowd expectations.

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<sup>22</sup> Newly published United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (2019) and the Basic Principles.

- Equip security forces with adequate material means to manage situations where they must maintain or re-establish public order, including through the appropriate use of less-lethal weapons.
- Ensure that all law enforcement officials receive appropriate training and testing, including pre-deployment briefings - focusing on the management of demonstrations, the avoidance of escalation and violence as well as the protection of human rights.<sup>23</sup>

#### *Arrests and detention*

- Establish protocols for the stop and search, arrest and detention of participants of demonstrations, in accordance with international standards.
- Uphold procedural safeguards applicable to arrest and detention, including prompt information on the reasons for arrest, access to a lawyer of choice and judicial oversight.
- Ensure that accurate and up-to-date information on individuals deprived of their liberty, including the location of detention, is available and accessible for family members.

#### *Monitoring and reporting*

- Allow and facilitate independent monitoring and reporting, including by media, on demonstrations.

## **2. Investigation of the events occurred during demonstrations since 1 October, with a view to establishing the facts and circumstances of alleged violations committed, ensuring accountability of perpetrators and effective remedies for victims**

#### *Investigations*

- Ensure that investigations are prompt, independent, impartial, effective, thorough and transparent.
- Ensure that investigations cover all allegations of serious human rights violations/abuses occurred since 1 October, including the deliberate killings, excessive use of force, arbitrary or unlawful arrest/detention, ill-treatment, intimidation/harassment and the attacks against media outlets.

#### *Accountability*

- Hold to account all those who perpetrated, directly or indirectly, ordered, supported or acquiesced to violations, including the chain of command of relevant authorities.
- Ensure that charges brought against demonstrators or security forces are in line with the principles of legality, proportionality and individual liability.

#### *Procedural safeguards and fair trial*

- Ensure that persons investigated and prosecuted in connection with the demonstrations are afforded with procedural safeguards and are guaranteed their right to a fair trial.

#### *Effective remedy*

- Ensure prompt, adequate and effective remedies and redress for those injured, the relatives of those killed and/or other victims of human rights violations, independent of findings on individual criminal responsibility.<sup>24</sup>

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<sup>23</sup> See for instance the UN Code of Conduct for Law Enforcement Officials (1979).

<sup>24</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law And Serious Violations of International Humanitarian Law.

**3. Facilitation of an enabling environment for the general public, including for civil society and human rights defenders, to exercise their fundamental freedoms of expression, peaceful assembly, association and political participation without undue interference and discrimination.**

*Framework for the exercise of fundamental freedoms*

- Put in place adequate legal frameworks, mechanisms and procedures to ensure that fundamental freedoms may be practically enjoyed without interference and be guaranteed without discrimination.
- Strengthen protection from reprisals, threats and intimidation for those exercising/defending human rights.

*Limitations on fundamental freedoms*

- Keep limitations of fundamental freedoms to a minimum, based on criteria established in accordance with international standards.
- Review existing rules/procedures in order to remove legal/practical barriers to forming/operating associations and participating in peaceful assemblies, and eliminate disproportionate punishments for violations of the law.

*Access to, and imparting of, information*

- Ensure unimpeded operation of information dissemination systems, including internet and social media, during demonstrations.

## Annex 1: Legal Framework

### *International human rights law*

Iraq is a party to most major international human rights treaties,<sup>25</sup> including the International Covenant on Civil and Political Rights (ICCPR). Iraq ratified the ICCPR on 18 February 1969 and it entered into force in Iraq on 25 January 1971, obligating Iraq to respect, protect and fulfil the rights set out therein.<sup>26</sup> The ICCPR protects the rights of individuals to life, to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment and to liberty and security of the person, including the right not to be subjected to arbitrary arrest or detention.<sup>27</sup> The ICCPR also protects rights relating to a number of fundamental freedoms, including of peaceful assembly, expression, association and political participation.<sup>28</sup>

Article 21 of the ICCPR provides that: 'The right of peaceful assembly shall be recognized'. The right protects the non-violent gathering of a number of people in a publicly accessible place with a common expressive purpose. The recognition of the right of peaceful assembly imposes a corresponding obligation on States to treat the exercise of the right and its repercussions with a certain level of accommodation. This requires refraining from unwarranted interference and, where needed, facilitating and enabling such assemblies.<sup>29</sup>

Peaceful assembly does not constitute an absolute right and may in certain cases be limited. Restrictions may however only be imposed when prescribed by the law and 'necessary in a democratic society in the interest of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others'.<sup>30</sup> The ICCPR also permits derogation from its obligations in times of public emergency threatening the life of the nation, when the existence of the public emergency is officially proclaimed. Derogations must be strictly required by the exigencies of the situation and must not be inconsistent with other obligations under international law or discriminatory. The right to life and the prohibition of torture are *ius cogens* and cannot be derogated from.<sup>31</sup>

Human Rights Council (HRC) condemned measures in violation of international human rights law that prevent or disrupt an individual's ability to seek, receive or impart information online.<sup>32</sup> It also called upon all States to refrain from and to cease such measures, and to ensure that all domestic laws, policies and practices are consistent with their international human rights obligations with regard to freedom of opinion and expression online.<sup>33</sup>

### *Iraqi law*

The Iraqi Constitution protects the rights to life, security and liberty,<sup>34</sup> and prohibits all forms of psychological and physical torture and inhumane treatment.<sup>35</sup> The Constitution also protects the rights

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<sup>25</sup> Except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

<sup>26</sup> See, for example, ICCPR, art. 2(1).

<sup>27</sup> ICCPR, Articles 6, 7, 9. On 7 July 2011 Iraq acceded to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>28</sup> ICCPR, Articles 19, 21, 22, 25. These articles permit States to limit the rights in certain circumstances.

<sup>29</sup> Human Rights Committee, draft General Comment No. 37 on Article 21: right of peaceful assembly.

<sup>30</sup> ICCPR, Article 22 (2).

<sup>31</sup> ICCPR, Article. 4(1) and (2).

<sup>32</sup> See HRC Resolution 38/11, 29 June 2018 (9) and HRC Resolution 38/7, 4 July 2018 (13).

<sup>33</sup> See HRC Resolution 38/7, 4 July 2018 (13).

<sup>34</sup> 2005 Iraq Constitution, Article 15. Notably, the Constitution provides that rights may be deprived or restricted in accordance with the law and based on a decision issued by a competent judicial authority.

<sup>35</sup> 2005 Iraq Constitution, Article 37 (1)(c).

to freedom of expression, assembly and peaceful demonstration, association and communication, including electronic.<sup>36</sup>

#### *Applicable human rights law to law enforcement operations*

International human rights law applicable to law enforcement operations provides the framework of analysis for the Government's use of force in response to demonstrations that take in public areas. Individuals participating in peaceful demonstrations benefit from the protection of the right to peaceful assembly.<sup>37</sup> Should an initially peaceful demonstration become violent on the part of the demonstrators, participants remain protected by, *inter alia*, the right to life - which prohibits the arbitrary deprivation of life and the right not to be subjected to torture or ill-treatment.<sup>38</sup>

The use of potentially lethal force – including firearms - is only permitted by law enforcement agencies in self-defense or for the defense of others as an extreme measure of last resort when there is an imminent threat to life or of serious injury. The intentional use of lethal force may only be used when strictly unavoidable to protect life from an imminent threat.<sup>39</sup> An imminent threat is defined as a situation in which an attack will occur 'in a matter of seconds, not hours', implying geographic proximity for the attack to succeed and no opportunity to take alternative action.<sup>40</sup> Firearms should never be used simply to disperse an assembly and indiscriminate firing into a crowd is always unlawful.<sup>41</sup> Any use of force should be targeted at individuals using violence as opposed to the entire crowd participating in a demonstration.<sup>42</sup>

Where the use of force is non-compliant with the above principles and causes a death, that death amounts to an arbitrary killing.<sup>43</sup> States are obliged to investigate, and, where appropriate, prosecute potentially unlawful actions.<sup>44</sup> The duty to protect the right to life also requires States to take adequate preventive measures to protect individuals against reasonably foreseen threats of being murdered or killed by criminals and organized crime or militia groups, including armed or terrorist groups.<sup>45</sup>

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<sup>36</sup> 2005 Iraq Constitution, Articles 38,39, 40, 42.

<sup>37</sup> ICCPR, Article 21.

<sup>38</sup> ICCPR, Articles 6, 7; Convention against Torture, Article 1.

<sup>39</sup> Basic Principles, Principle 9. See also Human Rights Committee, General Comment No. 36, para. 12.

<sup>40</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, A/HRC/26/36, 1 April 2014, para. 59.

<sup>41</sup> Joint report, para. 60 referencing Report of the Special Rapporteur, Christof Heyns, A/HRC/26/36, para. 75.

<sup>42</sup> Joint report, para. 57.

<sup>43</sup> See Human Rights Committee, General Comment No. 36, paras. 12, 29.

<sup>44</sup> See Human Rights Committee, General Comment No. 36, para. 29 and the 2016 Minnesota Protocol on the Investigation of Potentially Unlawful Death.

<sup>45</sup> Human Rights Committee, General Comment No. 36, para. 21.