

Enforced disappearances from Anbar governorate 2015-2016: Accountability for victims and the right to truth



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Cover picture: still from a video of the Iraqi High Commission for Human Rights showing children from Anbar governorate holding pictures and identity documents of missing relatives,

Photo credit: Iraqi High Commission for Human Rights – Anbar Governorate Office, June 2020

Contents

I	Executive summary	5
II	Mandate.....	6
III	Methodology	7
IV	Legal framework.....	7
4.1	International human rights law.....	7
4.2	International humanitarian law	9
4.3	International criminal law	10
4.4	National law	10
V	Findings on disappearances from Anbar.....	11
5.1	Background	11
5.2	Allegations and fact-finding	12
5.3	UNAMI Communications regarding allegations of enforced disappearances.....	13
5.4	Findings of the Iraqi High Commission for Human Rights	14
5.5	Fate of the disappeared	14
5.6	Challenges for reporting potential cases of enforced disappearances	15
5.7	Government’s response	16
VI	Conclusion.....	19
VII	Recommendations	21



I. Executive summary

This special report, *Enforced disappearances from Anbar governorate 2015-2016: Accountability for the victims and the right to the truth*, was prepared by the United Nations Assistance Mission in Iraq (UNAMI) through its Human Rights Office (HRO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). It is the first report by UNAMI/OHCHR concerning enforced disappearances allegedly perpetrated by pro-Government forces during combat and subsequent clearing operations targeting fighters belonging to the so-called Islamic State of Iraq and the Levant (ISIL) or alleged supporters. It is designed to assist the Government in its engagement with the United Nations Working Group on Enforced or Involuntary Disappearances¹ and the United Nations Committee on Enforced Disappearances,² notably to implement the concluding observations issued by the Committee on 13 October 2015³ and to fully implement the International Convention for the Protection of All Persons from Enforced Disappearance⁴. The report was submitted to the Government of Iraq and the Committee on Enforced Disappearances in advance of its 19th session, which will be held in September 2020.

During 2015-2017, Iraqi Security Forces (ISF) including the Popular Mobilization Forces⁵ (PMF) conducted military operations to recapture parts of Anbar governorate from ISIL, with support of the Global Coalition to Defeat ISIL.⁶ Since 2014, ISIL had imposed a campaign of terror on Anbar, subjecting people under its control to egregious human rights violations, including mass killings, summary executions and sexual slavery. This report in no way detracts from the courage of those who successfully achieved the territorial defeat of ISIL, and fully acknowledges the efforts of the Government to ensure accountability for the atrocities perpetrated by ISIL against the people of Iraq.

Following its inquiries, UNAMI/OHCHR has reasonable grounds to believe that during military operations in Anbar governorate in 2015 and 2016, pro-Government forces subjected at least 1,000 mostly Sunni Arab men and boys to enforced disappearance and related violations, including extrajudicial execution, torture and cruel, inhuman or degrading treatment or punishment, arbitrary

¹ The working group was established by resolution 20 (XXXVI) of 29 February 1980 of the United Nations Commission on Human Rights. It consists of five members, serving as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances. During its 121st Session in May 2020, the working group met in private session and concluded the review of 525 cases of enforced or involuntary disappearance relating to 25 countries, including Iraq. See OHCHR press release available online at

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25897&LangID=E>

² The Committee on Enforced Disappearances is the body of independent experts which monitors implementation of the International Convention for the Protection of all Persons from Enforced Disappearance by the States Parties. The Committee will consider Iraq at its 19th Session, which will take place between 7 and 25 September 2020. Documentation relating to the Committee's review of Iraq is available online at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2420&Lang=en

³ See Concluding observations on the report submitted by Iraq under article 29 (1) of the Convention, Committee on Enforced Disappearances, CED/C/IRQ/CO/1, 15 October 2015. Available online:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CED/C/IRQ/CO/1&Lang=En

⁴ Iraq acceded to the International Convention for the Protection of All Persons from Enforced Disappearance on 23 November 2010

⁵ From 10 June 2014, the Popular Mobilization Forces aggregated existing and new armed groups in response to the call to arms of grand Ayatollah Sistani to defend Iraq against ISIL. On 18 June 2014, the Prime Minister's office adopted the first of a series of administrative orders establishing the Popular Mobilization Commission, support modalities and reporting line to the Prime Minister as Commander-in-Chief of all Iraqi armed forces. Law 40 on the Popular Mobilization Commission was enacted on 26 November 2016, confirming the direct subordination of the Popular Mobilization Forces to the Prime Minister, outside of either Ministry of Interior or Ministry of Defence.

⁶ See Section 5.1 for details.

arrest and unlawful detention. This conclusion is based on UNAMI's own findings, considered alongside information obtained by the Iraqi High Commission for Human Rights (IHCHR) and the Anbar provincial council, together with the findings of the 2016 Investigation Committee on the Missing Persons from al-Sejar and al-Saqlawia between 26 May and 10 June 2016, which was established by the Government. This Committee examined the names of 775 disappeared persons and concluded that 673 of these persons went missing from areas under the control of pro-Government forces in Fallujah district between 26 May and 10 June 2016. On 4 July 2016, UNAMI/OHCHR sent a letter to the Ministry of Foreign Affairs of Iraq inquiring about the alleged enforced disappearance of 643 individuals (out of approximately 1,500 internally displaced persons from al-Saqlawiat area of Fallujah district) between 1 and 5 June 2016. On 5 September 2016, the Ministry acknowledged 873 persons as missing, including 166 who were attributed 'security indicators due to their implication with ISIL terrorist gangs'.⁷

UNAMI/OHCHR takes note of the Government's efforts to address allegations of enforced disappearances, which include: the establishment of two fact-finding committees (in 2016 and 2018); the draft Bill on the Protection of Persons from Enforced Disappearance, currently before the Council of Ministers; and engagement and cooperation with the United Nations Committee on Enforced Disappearances and the United Nations Working Group on Enforced or Involuntary Disappearances. Notwithstanding these efforts, UNAMI/OHCHR observes that limited progress has been made with respect to establishing the fate and whereabouts of the men and boys missing from Anbar; holding accountable the individuals, including commanders and other superiors, responsible for enforced disappearances; and respecting the right of victims to justice, truth and reparation.

UNAMI/OHCHR also received credible allegations of enforced disappearances from several other governorates,⁸ including Ninewa, Kirkuk, Diyala, Salah al-Din, Babil and Baghdad. This report focuses on Anbar as a case study, in order to provide contextual detail on one governorate with a particularly severe scale and scope of allegations of enforced disappearances, as a means of prompting remedial action countrywide.

The report provides detailed recommendations aimed at encouraging acknowledgement and redress for victims, the establishment of a strong domestic legal framework against enforced disappearances, compliance and procedural safeguards, as well as comprehensive investigations into all enforced disappearances in Anbar and other governorates, leading to accountability, including criminal prosecutions where applicable.

II. Mandate

This special report was prepared pursuant to United Nations Security Council resolutions relevant to human rights and accountability. Security Council Resolution 2522 (2020) mandates UNAMI/OHCHR to "promote accountability and the protection of human rights, and judicial and legal reform, with full respect for the sovereignty of Iraq, in order to strengthen the rule of law and improve governance in Iraq [...]." Within this context, UNAMI/OHCHR continues its support to the Government to implement its obligations under domestic and international human rights law. The report is part of the ongoing

⁷ The Ministry of Foreign Affairs, Human Rights Department, 12/Arabic letter Taa/3/872, 5 September 2016.

⁸ Iraq presently consists of 19 governorates, each with an elected provincial council.

engagement between the Government and the United Nations on the issue of enforced disappearances.

III. Methodology

In response to reports of enforced disappearances perpetrated by pro-Government forces in Anbar in 2015 and 2016, UNAMI/OHCHR followed up on these allegations with the aim of providing accurate information to the Government of Iraq, as well as evidence-based recommendations with respect to the State's human rights obligations related to enforced disappearances.

The information contained in the report is based on telephone and face-to-face interviews with families of victims of disappearances, Government representatives, community leaders, non-governmental organizations, civil society and other relevant interlocutors met during missions to Anbar and in Baghdad between 2015 and 2020.

In 2015 and 2016, UNAMI/OHCHR conducted 45 interviews during visits to camps of internally displaced persons in Anbar and Baghdad governorates, including with family members of alleged victims of enforced disappearances, arbitrary arrest, unlawful detention, and torture or ill-treatment. These interviews were supplemented by follow-up telephone interviews conducted from 2016 to 2020. All interviews were carried out following standard human rights monitoring methodology by trained UNAMI/OHCHR human rights officers. The information collected was assessed for credibility and reliability based on the level of detail provided and consistency of account.

In 2019 and 2020, UNAMI/OHCHR conducted further information-gathering interviews in Anbar with members of the provincial council, the Iraqi High Commission for Human Rights (IHCHR), police, judges, community elders, non-governmental organizations and humanitarian organizations. UNAMI/OHCHR held additional meetings in Baghdad with the Ministry of Justice, the Ministry of Defence, members of the Council of Representatives, officials of the Martyrs' Foundation (including the Mass Graves Directorate), and court officials as well as the two bodies established by the Government in 2016 and 2018 to investigate allegations of disappearances – the June 2016 Committee and the 46 Committee.⁹

IV. Legal framework

4.1 International human rights law

Iraq acceded to the International Convention for the Protection of All Persons from Enforced Disappearance on 23 November 2010.¹⁰ The Convention defines 'enforced disappearance' as:

“the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment

⁹ See Section 5.7 on the Government's Response for details on the Committees.

¹⁰ The International Convention for the Protection of All Persons from Enforced Disappearance entered into force on the thirtieth day following Iraq's accession, on 23 November 2010. See Convention, Article 39(2).

of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”¹¹

The Convention prohibits enforced disappearance without exception and requires States to take measures to investigate, prosecute and punish (or extradite) those responsible for enforced disappearances.¹² This includes the obligation to enact specific laws establishing the crime of enforced disappearance¹³ and to take measures to hold both individuals and superiors responsible through appropriate modes of liability.¹⁴ Under article 3 of the Convention, States’ obligation to investigate and to bring those responsible to justice also relates to disappearances committed by persons or groups of persons acting “without the authorization, support or acquiescence of the State”.¹⁵

The Convention further prohibits secret detention and obliges governments to enact specific legislation regulating the deprivation of liberty.¹⁶ In addition, it obliges States to maintain up-to-date official registers and records of persons deprived of liberty, containing minimum levels of information to be made promptly available to any judicial or other competent authority.¹⁷ States must also provide anyone with a legitimate interest access to the following information: the authority that ordered the deprivation of liberty; the authority responsible for supervising the deprivation of liberty; the date and time when the person was deprived of liberty, and the place where he / she is held.¹⁸

The Convention also recognizes the rights of victims to know the truth regarding the circumstances of an enforced disappearance, the progress and results of any investigation, and the fate of the disappeared person.¹⁹ States have an obligation to search for, locate, and release disappeared persons. In the event of death, they must locate, ensure respect and return the remains of the victim.²⁰ States must also ensure that the legal system provides victims the right to obtain compensation and reparation²¹ and take appropriate steps concerning the legal situation of disappeared persons whose fate has not been clarified, including with respect to family law, social welfare and property rights.²²

The Committee on Enforced Disappearances monitors States’ implementation of the Convention, including through its reporting procedure, under which all States parties submit an initial report within two years of the entry into force of the Convention. Upon examination of initial reports, the Committee adopts its concluding observations. The Committee then follow up on the implementation of its

¹¹ Ibid., Article 2.

¹² Ibid., Articles 4-15.

¹³ Ibid., Article 5.

¹⁴ Ibid., Article 6.

¹⁵ Ibid., Article 3

¹⁶ Ibid., Article 17. Article 17 requires legislation that, *inter alia*, clearly establishes the conditions under which deprivation of liberty may be ordered, determines which authorities are authorized to order the deprivation of liberty, guarantees that any person deprived of liberty shall be held in official places only, ensures access by competent and legally authorized authorities to such places, and that any persons with a legitimate interest can initiate proceedings before a court challenging the lawfulness of the deprivation of liberty.

¹⁷ Ibid., Articles 17 (3) and 21.

¹⁸ Ibid., Article 18 (1).

¹⁹ Ibid., Article 24(1) defines a victim of enforced disappearance as “the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance”.

²⁰ Ibid., Article 24 (2), (3).

²¹ Ibid., Article 24 (4) and (5). In 2012, the Committee against Torture devoted its General Comment No. 3 to the implementation of Article 14 of the Convention Against Torture and Other Cruel, Inhuman Treatment or Punishment, to which Iraq is a State Party (CAT/C/GC/3). It provides a detailed discussion and guidance on redress and reparation for victims of torture that is relevant to victims of enforced disappearance.

²² Ibid., Article 24(6).

recommendations by the State party, through its follow-up procedure and the examination of States' reports of additional information.

Iraq submitted its first report to the Committee on Enforced Disappearances on 26 June 2014, which was examined by the Committee during its ninth session held from 7 to 18 September 2015. On 15 February 2017, Iraq provided its reply to the Committee's Concluding Observations arising from that dialogue. The Committee had asked Iraq to provide additional information concerning the status of implementation of all Concluding Observations it issued on 13 October 2015. Iraq submitted the requested information in August 2019. The Committee will review the information supplied in September 2020.²³

Pursuant to article 30 of the Convention, the Committee can also request the State party to take immediate measures to search for a disappeared person. As of 17 August 2020, the Committee has registered 483 Urgent Actions related to facts that occurred in Iraq after the entry into force of the Convention. Pursuant to Article 33 of the Convention, the Committee may also carry out visits to the State party. The principle of such visits has already been accepted by Iraq. However, Iraq still has not accepted the further individual complaints procedure under article 31 of the Convention, nor the inter-State complaints procedure set out in Article 32.

The issue of enforced disappearances can also be addressed under the mandate of other human rights Committees. Iraq ratified the International Covenant on Civil and Political Rights on 25 January 1971 and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 7 July 2011. Under these treaties, the Government has the obligation to respect, protect and fulfill a broad range of human rights, including rights related to enforced disappearance, such as the rights to life, liberty and security, freedom from arbitrary detention, recognition as a person before the law, humane conditions of detention, and freedom from torture and cruel, inhuman or degrading treatment or punishment.²⁴

4.2 International humanitarian law

Iraq is a party to the Geneva Conventions of 1949 and Additional Protocol I of 1977, and is further bound by customary rules of law in this area of armed conflict.²⁵ In both international and non-international armed conflict, international humanitarian law protects persons from enforced disappearance through treaty and customary law rules prohibiting, *inter alia*, arbitrary deprivation of liberty and torture and cruel and inhuman treatment.²⁶ International humanitarian law also obliges parties to the conflict to take action to prevent disappearance through registration of detainees, to take

²³ See Footnote 2.

²⁴ Iraq is party to most major international human rights treaties, except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It is not a party to the Optional Protocol on the Convention against Torture or the Second Optional Protocol to the International Covenant on Civil and Political Rights regarding the abolition of the death penalty.

²⁵ Iraq ratified the Geneva Conventions of 1949 on 14 February 1956 and Additional Protocol I of 1977 on 1 April 2010. It is not a party to Additional Protocol II of 1977 concerning non-international armed conflict.

²⁶ For non-international armed conflict, see Common Article 3 to the Geneva Conventions of 1949; ICRC Study on Customary International Humanitarian Law, Rule 98 referencing Rules 89 (prohibition of murder), Rule 90 (prohibition of torture and other cruel or inhuman treatment), and Rule 99 (prohibition of arbitrary deprivation of liberty) applicable to both international and non-international armed conflict.

feasible measures to account for persons missing, and to provide information to their family members.²⁷

Security Council Resolution 2474 (2019) on the protection of missing persons in armed conflict affirms the international humanitarian law and human rights legal framework aimed at protecting persons from enforced disappearances. While providing guidelines to Member States on the matter, it does not confer any binding obligations on governments regarding enforced disappearances.²⁸

4.3 International criminal law

The Statute of the International Criminal Court defines enforced disappearance of persons as a crime against humanity, when committed as part of a widespread and systematic attack directed against a civilian population.²⁹ While Iraq is not a party to the Statute of the International Criminal Court, by its accession to the International Convention for the Protection of All Persons from Enforced Disappearance, it has accepted that the widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law shall attract the consequences provided for under such applicable international law.³⁰ When occurring in the context of armed conflict, enforced disappearances and the violations that accompany them, such as murder, torture/ill-treatment and arbitrary detention, may also amount to war crimes.³¹

4.4 National law

Iraq has not yet criminalized enforced disappearance as a specific crime, as required by the International Convention for the Protection of All Persons from Enforced Disappearance. However, in 2019, the Iraqi Council of Representatives completed the first reading of the Bill on Protection of Persons from Enforced Disappearance, originally drafted in 2017 by its Committee on Human Rights, which foresees the criminalization of enforced disappearance. The Ministry of Justice developed a subsequent draft which was reviewed by the Council of State. On 2 March 2020, the legal review was reportedly completed with recommendations for several amendments to better align the bill with the International Convention for the Protection of All Persons from Enforced Disappearance. At the time of finalizing this report, the bill was before the Council of Ministers for endorsement and subsequent return to the Council of Representatives for adoption.

Pending the adoption of new legislation, national law contains several provisions that require deprivation of liberty to have a legal basis. For example, the Iraqi Penal Code contains provisions criminalizing arrest, imprisonment, detention and punishment by public officials or agents without legal

²⁷ For non-international armed conflict, see ICRC Study on Customary International Humanitarian Law, Rule 98 referencing Rule 123 requiring the registration of persons deprived of liberty, and Rule 117 requiring parties to the conflict to take all feasible measures to account for persons reported missing as a result of armed conflict and to provide family members with information on their fate.

²⁸ Resolution 2474 (2019), adopted by the Security Council at its 8543rd meeting, 11 June 2019, S/RES/2474 (2019).

²⁹ International Criminal Court Statute, Article 7.

³⁰ International Convention for the Protection of All Persons from Enforced Disappearance, Article 5.

³¹ For example, in non-international armed conflict, violence to life and persons, including murder, cruel treatment and torture and the passing of sentences and extra-judicial executions amount to war crimes (see ICRC customary international law study, rule 156 and for example, the ICC Statute, Article 8((2)c)(i) and (iv)). Provided the chapeau elements of a crime against humanity are met, murder, deportation or forcible transfer of the population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, and persecution, and other inhuman acts or serious injury may amount to international crimes (see customary international law, and, for example, International Criminal Court Statute, Article 7).

basis, as well as torture and abduction by any individuals.³² Moreover, the Criminal Procedure Code requires all arrests to be based on an order issued by a court or judge, or in carried out circumstances only where the law permits.³³

V. Findings on enforced disappearances from Anbar

“We thought the security forces would protect us. On 2 June 2016, I walked for hours with more than 2,000 people carrying white flags. In al-Saqlawia, we encountered [withheld] security forces. They separated us from the women and children and walked us to a big warehouse nearby, where we were beaten. At around midnight, we were loaded onto private trucks and driven for eight hours to an unknown location where I was detained in a yellow building for three days. We were beaten every day. After two days, I fainted due to the beatings. I was told the forces threw me out of the building because they thought I was dead.

It was my brother that saved me. He saw me lined up alongside the bodies of other detainees who had been killed by beating or shooting. My brother quickly brought me back into the building, where I saw several detainees being killed. Two detainees were shot and killed because they had asked for water. There were hundreds of bodies lined up in the courtyard. They kept shouting about revenge for Camp Speicher and a soldier killed in Fallujah. After three days, I was one of 700 detainees put on trucks, driven to Tariq Military Camp and handed over. They beat us as well.”

- UNAMI/OHCHR HRO interview with a survivor from al-Saqlawia, Fallujah district, 23 June 2016

5.1 Background

From 2014 to 2016, ISIL took control of large areas of Anbar and other Iraqi governorates and subjected the local population to serious violations of international human rights law and breaches of international humanitarian law, many of which amounted to international crimes.³⁴ For example, in Anbar, UNAMI/OHCHR documented mass executions by ISIL of security forces and targeted killings of civilians perceived to support the Government.³⁵ UNAMI/OHCHR previously reported the discovery of at least 24 mass graves in areas of Anbar formerly under ISIL control, estimated to hold the remains of at least 628 victims of ISIL atrocities, including three mass graves believed to contain the bodies of more than 200 members of the Al-Bu Nimr tribe, including women and children.³⁶ In addition, ISIL offensives in the region led to the conflict-related displacement of nearly one million people in or outside Anbar,

³² Iraqi Penal Code, Articles 322, 323, 421-426.

³³ Iraqi Code of Criminal Procedure, Article 92.

³⁴ “Report on Human Rights in Iraq January - June 2016”, pp. 11-14, and the “Report on Human Rights in Iraq July – December 2016”, pp. 6-18, jointly published by UNAMI and OHCHR.

³⁵ UNAMI “Report on the Protection of Civilians in the Armed Conflict in Iraq: 11 December 2014 – 30 April 2015” pp. 9-12, 15, 19, 22, 24, 26.

³⁶ UNAMI “Unearthing Atrocities: Mass Graves in territory formerly controlled by ISIL”, 6 November 2018, pp. 9-10.

many of whom were deprived of adequate shelter or food for extended periods of time, and remained in camps for internally displaced persons.³⁷

From May 2015 to November 2016, pro-Government forces conducted a military operation titled “the Anbar Campaign” to retake territory in Anbar from ISIL and affiliated armed groups. Pro-Government forces included the Iraqi Army, Iraqi Police, National Intelligence Services, and Counter-Terrorism Units, which reported to a Joint Operations Command (JOC) that also coordinated with the Global Coalition to Defeat ISIL - ‘Operation Inherent Resolve’.³⁸ This coalition also included PMF and local tribal militia who volunteered to fight alongside the security forces against ISIL.³⁹ In April 2015, the Council of Ministers issued a decree instructing all ministries and State institutions to recognize PMF as an official structure linked to the Prime Minister in his capacity as Commander-in-Chief of the armed forces of Iraq.⁴⁰

In March 2016, UNAMI/OHCHR began to receive reports of alleged enforced disappearances of internally displaced men and boys – mostly Sunni Arabs – from security screening centres administered by pro-Government forces in Fallujah and Ramadi districts, set up as part of the military campaign with the objective of screening for individuals suspected of ISIL affiliations. During UNAMI meetings with family members of the victims, Anbar provincial council members and other relevant interlocutors,⁴¹ those interviewed believed that the disappearances may have been motivated by the desire for retribution against men perceived to have supported ISIL, particularly in light of the notorious atrocities committed by ISIL against members of the security forces, such as the massacre at Camp Speicher.⁴²

5.2 Allegations and fact-finding

In 2016, UNAMI/OHCHR interviewed 45 persons who provided reliable information as to the enforced disappearance of at least 296 males (including at least four boys) from security screening centres and checkpoints administered by pro-Government forces in Ramadi city and Fallujah district in 2015 and 2016. In both locations, most of those reported missing were Sunni Arab men who had recently left towns and villages in Anbar under ISIL control in order to seek shelter – often with family – from an intensification in clashes during military operations to expel and destroy ISIL elements. Prior to relocating internally displaced persons to camps, pro-Government forces typically transported them to screening centres to establish their identities and check for ISIL affiliation, primarily by comparing names against a security database of persons alleged to have links to ISIL. At the Ramadi and Fallujah screening centres, the pro-Government forces separated men and boys presumed to be above 14 years of age from women and children younger than 14. The names of those separated were checked for ISIL affiliation. The others were transferred to IDP camps with no further identity checks.

³⁷ For example, see UNAMI/OHCHR “Report on the Protection of Civilians in the Armed Conflict in Iraq: 11 December 2014 – 30 April 2015”, p. 7, and UNAMI/OHCHR “The Right to Education in Iraq; Part one – The Legacy of ISIL Territorial Control on Access to Education”, February 2020.

³⁸ As of 1 August, the Global Coalition to Defeat ISIL counted 82 partners, countries or regional organizations, see <https://theglobalcoalition.org/en/>

³⁹ In a meeting with UNAMI on 29 April 2019, the Anbar police leadership stated that the level of command and control over PMF units on the ground, particularly in Fallujah district, was very loose. This echoed a statement of a court official of the Anbar Cassation Court who told UNAMI on 24 April 2019 that although PMF units did not have the legal mandate to detain or interrogate persons, some carried out those functions.

⁴⁰ Regular Session of the Council of Ministers 14/2015.

⁴¹ Details on interlocutors withheld for reasons of confidentiality and protection.

⁴² On 12 June 2014, ISIL attacked Camp Speicher in Tikrit, killing at least 1,000 Iraqi Army cadets and other pro-Government forces. See UNAMI “Report on the Protection of Civilians in the Armed Conflict in Iraq: 11 December 2014 – 30 April 2015”, Annex 1: Report on the Camp Speicher Incident.

Al-Huriya and Hasiba screening centres in Ramadi City

Of the 45 persons UNAMI interviewed in 2016, 16 displaced persons had initially reported the alleged enforced disappearance of 55 men after their arrest and detention at al-Huriya and Hasiba screening centres in Ramadi city, between March and October 2016.⁴³ During its engagement with the Government on this issue, UNAMI/OHCHR subsequently established that six of the 55 men had later reappeared.⁴⁴ Despite repeated efforts by family members to access information from the Government on the fate and whereabouts of the remaining 49 men, the competent authorities have not provided them with any information.

Checkpoints in al-Sejar area, and screening centres in al-Saqlawia and al-Razazzah in Fallujah district

UNAMI/OHCHR obtained information on similar patterns of disappearances from checkpoints in the al-Sejar area, and screening centres located in al-Saqlawia and al-Razazzah, in Fallujah district, between September 2015 and November 2016.

Of those interviewed in 2016, 29 had knowledge of an additional 247 males (including at least three boys) missing during the security screening or after visiting these checkpoints and screening centres in Fallujah district. Of these 247 males, 156 allegedly disappeared from al-Saqlawia area, at least 80 from al-Sejar, and 11 from al-Razazzah, between September 2015 and November 2016. Despite repeated efforts and requests to the Government, no information was made available by the competent authorities as to the fate or whereabouts of these men.

5.3 communications to Government regarding allegations of enforced disappearances

Between 7 June 2016 and 30 January 2018, UNAMI/OHCHR submitted 14 written communications to Government officials, including the Prime Minister, the Speaker of the Council of Representatives, as well as the Ministers of Interior, Defence, and Justice, calling for immediate measures to counter the numerous violations - including enforced disappearances, killings and torture - ongoing in Ramadi and Fallujah districts, and calling on the competent authorities to search for disappeared persons, investigate their alleged enforced disappearances, and inform their family members about their whereabouts and legal status.

In its responses, the Government was only able to clarify the fate of one person, with the Ministry of Foreign Affairs confirming he was in detention.⁴⁵

The numerous reports of enforced disappearances of Sunni Arab males, including children, from Ramadi and Fallujah districts after their detention by pro-Government forces in 2015 and 2016, raises serious concern. The subsequent lack of or inadequate response from the Government to acknowledge their arrest and detention or to provide information as to the fate and whereabouts of many of the victims, gives rise to the assessment that most of the individuals may be victims of enforced disappearance.

⁴³ Of these, 24 missing males, including one boy, were family members of the persons interviewed.

⁴⁴ UNAMI has additional information on two of the men who reappeared: One man was arrested by pro-Government forces in August 2016 from a camp of internally displaced persons in al-Ramadi city, and was released in February 2017 by order of a judge.

⁴⁵ In an email to UNAMI dated 13 June 2016, the Ministry of Foreign Affairs confirmed that one of six persons identified as missing by UNAMI in a previous email was in detention.

The information obtained by UNAMI/OHCHR, indicating a likely pattern of enforced disappearance, is further supported by a list compiled by the Anbar provincial council of 1,774 persons arrested by pro-Government Forces in 2015 and 2016, who remain missing. The list mainly comprises those believed to have gone missing from the al-Razazzah screening centre in Fallujah district.⁴⁶ The provincial council shared this list with the Council of Representatives, and it is freely available on social media. While the Human Rights Directorates of the Ministries of Justice, Interior, and Defence informed UNAMI/OHCHR that the list lacked sufficient detail to render it useful in locating victims, the Anbar provincial council responded that it intentionally limited the information to protect victims and family members.

5.4 Findings of the Iraqi High Commission for Human Rights

The IHCHR office in Ramadi city also compiled a list of 300 names of persons who allegedly disappeared from al-Saqlawia, al-Sejar and al-Razzazah in 2016, in addition to those persons documented as missing by the June 2016 Committee. Despite sharing the list with the relevant security entities and Ministries, IHCHR received no information as to the fates and whereabouts of the listed persons beyond the Government's consistent response, which remained unchanged as of August 2020, that the 300 names submitted were not found in its database of detainees.

5.5 Fate of the disappeared

UNAMI/OHCHR remains gravely concerned about the fate and whereabouts of the men and boys who disappeared from security screening centres and checkpoints administered by pro-Government forces in Fallujah and Ramadi districts, set up as part of the military campaign to retake territory in Anbar from ISIL and affiliated armed groups. While UNAMI/OHCHR acknowledges that some of those reported as disappeared may be detained in Government detention facilities, it seems unlikely to be the case for the majority of those reported disappeared, given the absence of information transmitted to families and communities concerning their whereabouts and the increasing passage of time.

Four individuals interviewed by UNAMI in 2016 described being detained at al-Saqlawia, al-Razazzah and al-Sejar checkpoints between 2015 and 2016, and transferred to nearby buildings used as informal detention and interrogation centres. One of the men stated he was transferred to the Tariq military camp together with an estimated 700 other detainees, after having spent about five days in the informal detention centre. The other three reported having been severely beaten and forced to confess their membership to ISIL. They also stated having seen "hundreds of dead detainees" allegedly killed through torture or summary executions. While the June 2016 Committee did not find evidence to support these specific allegations, its report established that a single member of a militia group affiliated with PMF had shot and killed 16 men and a 14-year-old boy at al-Saqlawia, supporting the credibility of the accounts. These victims had been displaced from al-Sejar area and allegedly buried in a mass grave at Shiha, near the Sharhabil School in al-Saqlawia.

Fates of persons disappeared in Anbar and discovery of a mass grave in Fallujah

In early December 2019, residents of Fallujah discovered a mass grave in al-Saqlawia, which had reportedly come to the surface following heavy rain. While it cannot be excluded that the mass grave could also contain ISIL fighters and/or victims of ISIL, community members believe it contains persons

⁴⁶ Several authorities, including the Directorate of the Anbar Police, Anbar Court of Cassation and Anbar branch of IHCHR, indicated they considered the list accurate and that it would likely increase. As at August 2020, Anbar district councils were gathering additional complaints on the instructions of the Anbar provincial council.

who disappeared after being abducted in 2015 and 2016 from the security screening centres at al-Saqlawia and al-Razzazah checkpoints. Sources emphasized the close proximity of the location of the mass grave to a security checkpoint in Mazraa area (the “Sokoor checkpoint”), which was not under ISIL control when the disappearances took place.

Following the discovery of this mass burial site, the Mass Grave Directorate under the Martyrs’ Foundation decided to proceed with exhumation. However, the Directorate reported that the process has since stalled due to lack of funding. The site is currently under the protection of the Anbar Operations Command.

UNAMI/OHCHR acknowledges the various challenges faced by Iraqi authorities to conduct exhumations, undertake investigations and identify the remains, as well as the challenges faced by relatives seeking to obtain information as to the fate and whereabouts of their disappeared family members, and, if deceased, of their mortal remains. Under international standards, Iraq has the obligation to implement best practices relating to the protection and examination of mass grave sites and to investigate and prosecute those responsible for the mass killings that occurred in the context of the conflict. This includes the obligation to conduct forensic investigation in support of criminal processes. Victims’ relatives also face significant challenges in obtaining information and should be supported within all available means.

UNAMI/OHCHR has documented the existence of 202 mass graves sites since 2014, based upon information received from the Iraqi authorities. The vast majority of the sites were discovered in areas formerly controlled by ISIL and are large-scale crime scenes⁴⁷ which provide harrowing testament to the unimaginable human loss, profound suffering and shocking cruelty inflicted by ISIL.⁴⁸

5.6 Challenges for reporting potential cases of enforced disappearances

Iraqi law does not explicitly criminalize enforced disappearances, nor does it provide for specific procedures for the search for disappeared persons and the investigation of alleged enforced disappearances. In theory, cases should be reported, registered and investigated using the provisions in place for disappeared persons.⁴⁹ There are, however, no specific provisions in Iraqi law on how and to whom to report a disappeared person. Rather, there are various procedures involving multiple government entities, ranging from police, personal status courts, the Ministry of Health, the Martyrs’ Foundation, and IHCHR, each with specific responsibility to locate missing persons. As these institutions have overlapping jurisdictions, families face substantial administrative hurdles when seeking to clarify the fate and whereabouts of their relatives. The civil documentation required simply to register a case, with each entity having its own administrative procedures, often discourages the registration of cases with competent authorities and consequent triggering of an investigation.

A potential case of enforced disappearances may be reported to police, a prosecutor or investigative judge as per the Iraqi Criminal Procedure Code No. 23 of 1971 (Articles 47 and 49). In order to verify an alleged enforced disappearance, the investigative judge may summon witnesses in accordance with

⁴⁷ Evidence collection at many of these mass grave sites falls within the mandate of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD). UNITAD has been mandated by the United Nations Security Council Resolution 2379 (2017) “...to support domestic efforts to hold Da’esh/ISIL accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by Da’esh/ISIL...”.

⁴⁸ UNAMI “Unearthing Atrocities: Mass Graves in Territory Formerly Controlled by ISIL”, 6 November 2018.

⁴⁹ “Reporting a missing person in Iraq: Legal Framework, 26 February 2020”, International Commission for Missing Persons, ICMP.GR.IRQ.155.1.doc, Baghdad, 9 April 2020, pp. 3-6.

Article 59 of the Code. Given that enforced disappearances are generally accompanied by threat, intimidation and secrecy, any requirement by investigative judges that witnesses provide statements – and thereby expose themselves to high risks – may further discourage reporting of cases.

UNAMI/OHCHR received consistent reports that where a disappeared person and/or his family was perceived to be affiliated with ISIL, including as a consequence of simply living in areas previously controlled by the group, the family would face additional hurdles to reporting and having their complaint registered, including the requirement to furnish a “security clearance”⁵⁰ that can only be issued by the Iraqi National Intelligence Service or National Security Service. In Anbar, UNAMI/OHCHR spoke with many families of disappeared persons who did not report and register cases of alleged enforced disappearances with the competent authorities for fear of engaging with the intelligence and security services. As they have not provided any formal notification to the authorities of their relatives’ disappearance, they cannot take formal steps to address the civil registration matters required as a consequence of the disappearance of their family member, and cannot therefore apply for any compensation from the State to which they may be entitled.⁵¹

5.7 Government’s response

Investigation Committee on the Missing Persons from al-Sejar and al-Saqlawia (“June 2016 Committee”)

In June 2016, the Government established an eleven-member Investigation Committee on the Missing Persons from al-Sejar and al-Saqlawia (“June 2016 Committee”), led by the Deputy Governor of Anbar. It was mandated to investigate allegations of human rights violations that occurred from 26 May to 10 June 2016 in the al-Saqlawia and al-Sejar areas of Fallujah district.⁵²

In its final report dated 25 December 2016, the June 2016 Committee concluded the following:

- “The number of those killed from the people of al-Sejar is 17 persons. It was proved through the claims made by the relatives of the victims and through information provided by the Director of Security in the Popular Mobilization Commission, with which the Committee concurs, that the accused person Huari Abu Madin Daoud carried out the killing of the victims and is currently detained [...] according to (Article 4 (1) of the Terrorism Law and the case of the accused person is pending before the Central Investigation Court”.⁵³
- “The Committee concurs that there are cases of disappearance of a number of sons of these areas and that the number of missing persons according to the data reviewed by

⁵⁰ In order to obtain security clearance, an individual must submit his/her name to the intelligence force in their area, which is checked against a database of individuals with suspected links to ISIL.

⁵¹ During meetings held in February 2020, members of the Anbar provincial council and the Council of Representatives as well as representatives of non-governmental organizations and IHCHR stated that families of the disappeared persons in Anbar had not received any sort of compensation or any other form of redress from the State in relation to the issue of missing persons.

⁵² Administrative Order No. S/12 issued by the Prime Minister’s Office established the Committee. The Committee was headed by the Deputy Governor of Anbar and included representatives of IHCHR, Al Anbar Police, Baghdad Operations (under Ministry of Defence), Common Operation Leadership (under the Ministry of Defence), West Baghdad Operations (also under the Ministry of Defence), the Secretariat of the Council of Ministers, PMF, Federal Police, Anbar Intelligence and Security, and Anbar National Security. The Committee received individual complaints and conducted visits to Anbar where it met with internally displaced persons and interviewed the family members of missing persons.

⁵³ Final report of the June 2016 Committee, Findings, p. 8

the Committee, and according to claims made by their relatives, amounts to 673 missing persons, and there are security suspicions against 166 of them.”⁵⁴

- The Committee concurs that cases of killings and disappearances occurred during the liberation of Fallujah, particularly in al-Sejar and al-Saqlawia, which were within the responsibility of the Federal Police, and [...] Popular Mobilization Brigades”.⁵⁵

UNAMI/OHCHR commends the Government’s prompt establishment of the June 2016 Committee, which carried out its investigations in a particularly challenging environment at a time when the Government was seeking to remove ISIL from Anbar and restore its control over the area. Given the limited temporal and geographic mandate of the June 2016 Committee (which did not include al-Razazzah screening centre in Fallujah district, reportedly an area from which many persons disappeared), UNAMI/OHCHR considers that the number of disappeared persons is probably higher than the Committee’s estimation. Underestimation of the number of disappeared persons is likely to have been further compounded by the protection concerns of victims’ relatives, who did not come forward to lodge complaints, given that the June 2016 Committee was composed predominantly of representatives of the security entities (seven out of 11 members) at a time when the operations carried out by those same pro-Government forces were still ongoing in Anbar. Nevertheless, UNAMI/OHCHR welcomes the Committee’s efforts to establish the truth, and its acknowledgement that hundreds of persons were disappeared or killed in areas of Fallujah district controlled by pro-Government forces.

UNAMI/OHCHR notes that the report of the June 2016 Committee contained seven recommendations, including:

“A. The Committee recommends that the plaintiffs’ families be informed of the personal right to refer to the judiciary to report missing persons and institute proceedings in the same matter.”

“B. The Committee recommends that the Federal Police Command and the Popular Mobilization Commission be instructed to investigate this information and to provide the relevant authorities with any new information arising from these investigations on the fate of the missing or killed related to the case.”

“E. The Committee recommends that the matter be submitted to the Presidency of the Anbar Court of Appeal which shall ensure that the investigations into the matter are conducted thoroughly and in compliance with Iraqi legal procedure, in order to identify the responsible entities and hold them accountable”.

“F. Calling on the Iraqi Government to establish a centre for missing persons, and in cooperation with the United Nations Committee on Missing Persons,⁵⁶ make efforts to record persons missing since the beginning of 2014, with a mandate which could be extended to include persons missing since the fall of the regime.”

Fact-finding committee (“the 46 Committee”)

In May 2018, the Government established a second fact-finding committee (“the 46 Committee”), within the purview of the Permanent Higher Committee of Peaceful Coexistence and Social Peace,

⁵⁴ In a letter to UNAMI dated 5 September 2016, the Human Rights Department of the Ministry of Foreign Affairs stated that of the list of 673 persons who reportedly disappeared from al-Saqlawia and al-Sejar areas, 166 had “security indicators due to their implication with ISIL terrorist gangs”, while the remaining persons were identified as “missing persons”.

⁵⁵ Final report of the June 2016 Committee, Findings, p. 8

⁵⁶ This should read “the United Nations Committee on Enforced Disappearances”.

under the leadership of a Judge from the Central Criminal Investigative Court. The Committee was mandated, *inter alia*, to prepare a “list of abducted and missing persons and resolve their cases”.⁵⁷ The chairperson of the 46 Committee⁵⁸ has explained that the Committee’s efforts have focused upon finding disappeared persons from areas formerly controlled by ISIL, including during the military operations conducted between 2014 and 2017 to liberate these areas. The Committee has reportedly registered approximately 10,402⁵⁹ names of missing persons from Anbar (4,941), Mosul (2,492) and Salah al-Din (2,969) governorates.⁶⁰ It remains operational and is attempting to determine the fate of the disappeared individuals.

UNAMI/OHCHR observes that the 46 Committee appears to lack a clear and strong investigative mandate, with its activities focused on collecting the names of disappeared persons for the purpose of processing potential compensation claims and facilitating future access to social protection, rather than prioritizing investigation and accountability. The 46 Committee, which meets on an *ad hoc* basis, interprets its mandate as precluding direct contact with victims or alleged perpetrators of disappearances. It does not engage with any of the other Iraqi institutions, including IHCHR and Anbar provincial council, which are also actively involved in collecting names of persons who may have been subjected to enforced disappearance. Moreover, seven of the nine members of the Committee are from security entities, including the Joint Command Centre, the Iraqi Intelligence Agency, the Ministries of Defence and Interior, and PMF, and both the chairperson and members of the 46 Committee continue to have full-time responsibilities at their parent organizations as they are appointed *ex-officio*. This supports the perception that the Committee lacks sufficient independence and impartiality. The 46 Committee also lacks adequate resources and is not supported by a secretariat.⁶¹

While the mandate of the 46 Committee goes far beyond disappeared persons and enforced disappearances, extending to the review of: “the disputes and vexatious complaints of detainees, abducted persons, preventative arrests and missing persons and [the preparation of] a list of these persons to know their fates and resolve their cases,”⁶² its capacity to ascertain the fate of those disappeared and seek accountability for perpetrators has been limited.

Cooperation with the International Commission for Missing Persons

In July and August 2020, the Ministry of Justice, the Mass Grave Affairs and Protection Directorate of the Martyr’s Foundation, and the Medico Legal Directorate of the Ministry of Health and Environment, all signed cooperation agreements with the International Commission for Missing Persons (ICMP).⁶³ Through these agreements, the ICMP will support Government efforts in obtaining and processing data for the purpose of locating and identifying missing persons; improving domestic technical capacities in forensic archeology and anthropology, and crime scene management; and strengthening cooperation among relatives of the missing and between families and the authorities. The ICMP is also facilitating efforts by the Government of Iraq to create a central body that would be responsible for accounting for all missing persons as well as a central record of missing persons.

⁵⁷ Established by Order 46/2018 of the General Secretariat of the Council of Ministers, issued on 20 May 2018.

⁵⁸ UNAMI meeting with the Chairperson of the 46 Committee, Judge Husam Abdul Kareem Yusuf, Baghdad, Iraq, 26 Feb 2020.

⁵⁹ The 46 Committee has yet to work on other liberated governorates including Baghdad, Diyala and Kirkuk or any other locations where security forces regained territorial control from ISIL.

⁶⁰ The 46 Committee Chairperson provided these figures to UNAMI during a meeting on 26 February 2020.

⁶¹ *Ibid.*, The 46 Committee Chairperson stated that initially, the Committee was supposed to be assisted by the Permanent Higher Committee of Peaceful Coexistence and Social Peace as its Secretariat. Yet, over two years after its establishment, the Committee has still not been provided with such support.

⁶² Prime Minister’s Committee Order Number 46 of 2018.

⁶³ ICMP Press release dated 13 August 2020 – available at <https://www.icmp.int/>

VI. Conclusion

The findings set out in this report, when considered alongside those of the June 2016 Committee, together with the information collected by IHCHR and Anbar provincial council, indicate a pattern of disappearances of Sunni Arab males by pro-Government forces during military operations conducted in Anbar in 2015 and 2016. Based on conservative estimates, the actions carried out by pro-Government forces during those operations are likely to have resulted in over 1,000 men and boys being subjected to enforced disappearance and other frequently related human rights violations, including extrajudicial execution, torture and cruel, inhuman or degrading treatment or punishment and arbitrary detention.

UNAMI/OHCHR acknowledges the serious challenges faced by Iraq in the recent past with regard to security and rule of law. However, due to the severity and scope of the alleged enforced disappearances outlined in this report, UNAMI/OHCHR considers that the Government of Iraq should launch an immediate and effective investigation to determine the fate and whereabouts of the thousands of victims of enforced disappearances, and should ensure that those responsible are held accountable.

UNAMI/OHCHR commends the Government on its national reconciliation and peace building efforts, which include the establishment of the 46 Committee, mandated to examine allegations of abduction, disappearances and other detention-related issues. Yet, over two years after its establishment, the Committee has yet to make significant progress to determine the fate of the disappeared or establish accountability of those responsible.

UNAMI/OHCHR also welcomes the Government's invitation to the Working Group on Enforced or Involuntary Disappearances to conduct a visit to Iraq, which will provide a further opportunity for the Government to receive technical assistance from a United Nations expert body in addressing these violations.

Acknowledgement of and accountability for human rights violations and abuses committed by all parties to the conflict is a critical foundation for achieving national reconciliation and building sustainable peace. In this context, UNAMI/OHCHR welcomes the Government's engagement and cooperation with the United Nations Committee on Enforced Disappearances and its efforts to implement the Committee's Concluding Observations, including with regard to the Bill on Protection of Persons from Enforced Disappearances, currently before the Council of Ministers.

While UNAMI/OHCHR welcomes the work of the June 2016 Committee, it observes that insufficient progress has been made with respect to the implementation of its recommendations and to establish the fate and whereabouts of the men and boys missing from Anbar. The Government's efforts in that regard appear limited to cross-checking names of the missing against a database of detained persons. The International Convention for the Protection of All Persons from Enforced Disappearance requires that States parties take all appropriate measures to search for, locate and release disappeared persons or to locate and return their remains. This includes accessing any unauthorized detention sites to check for disappeared persons.

In this context, UNAMI/OHCHR welcomes the recent signing of cooperation agreements between the Government and the ICMP, and encourages the Government to expedite its efforts, in cooperation with the ICMP, to create a central body responsible for accounting for all missing persons and a central record of missing persons accessible to the public.

UNAMI/OHCHR strongly emphasizes that the perpetrators of enforced disappearance must be held accountable, in accordance with Iraq's obligations pursuant to the International Convention for the Protection of All Persons from Enforced Disappearance and other applicable law. This requires conducting effective investigations into the disappearances allegedly perpetrated during military operations against ISIL across Iraq, with access to documentary evidence and to any detention facilities where disappeared persons may still be held. In particular, in order to end such situations, investigations should clarify the basis for detention by pro-Government forces and determine the existence of detention centres where people have been deprived from the protection of the law.

Where disappeared persons are believed to be dead, the alleged killings must be investigated as well as the alleged enforced disappearance. In that context the authorities should establish the circumstances in which the deaths occurred, and the location of the victims' remains. If a disappeared person is found dead, the search is considered as completed when the victim has been fully identified in accordance with international standards and handed over to his or her relatives in a dignified manner.⁶⁴

UNAMI/OHCHR further emphasizes that, pursuant to international human rights law, victims and their families have the right to truth. Family members have waited for well over four years with no knowledge as to the fate of their husbands, sons, fathers and brothers. In addition to the immense psychological burden suffered, they also face practical challenges both in their daily life and in dealing with the legal system, while the fate and whereabouts of their relatives remain unknown. These problems are exacerbated for those families who lost their sole or main source of family income.

Noting the emphasis of both the June 2016 Committee and 46 Committee on distinguishing persons perceived to have ISIL links from other disappeared individuals, UNAMI/OHCHR recalls that in compliance with article 1 of the International Convention for the Protection of all Persons from Enforced Disappearance, "[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance".

⁶⁴ Committee on Enforced Disappearances 'Guiding principles for the search for disappeared persons' (CED/C/7) 2019, Principle 7.

VII. Recommendations

UNAMI/OHCHR makes the following recommendations to the Government of Iraq:

Investigations and accountability

- Expedite the establishment of an independent statutory investigative body with a comprehensive mandate and the necessary powers and resources to conduct full, impartial, immediate and effective investigations into all allegations that pro-Government forces perpetrated enforced disappearances, extrajudicial executions, ill-treatment and torture, as well as arbitrary arrest and unlawful detention during the period covered by this report. Such an investigative body should have extensive and legally enforceable powers to request, and, if necessary, compel access to, all relevant documents and any other written evidence and information relevant to its investigations. It should also have the power to summon and question witnesses.
- Publish the results of investigations carried out by the independent statutory body at the earliest possible opportunity (names of alleged perpetrators should be temporarily withheld while the cases are ongoing to protect the individuals' presumption of innocence).
- Based on the results of the investigations, prosecute and punish those responsible, ensuring they receive a prompt, independent, impartial, effective, thorough, transparent and fair trial in accordance with international human rights standards, in which all due process rights of the accused and the victims/witnesses are respected.
- Ensure that investigations include analysis of command structures and assessment of the criminal liability of persons in positions of command, to enable the prosecution of superiors with effective control where those superiors had knowledge or consciously disregarded information indicating subordinates were committing or about to commit enforced disappearances and related crimes and suppressed or failed to report the information to competent authorities for investigation and prosecution, without prejudice to the specific standards of responsibility applicable under international law to military commanders in context of armed conflict.
- Take appropriate steps to ensure that all parties participating in the investigations are protected against ill-treatment or intimidation as a consequence of any complaint or evidence given, and ensure that persons suspected of committing enforced disappearance are not in a position to influence the progress of any investigation through pressure, acts of intimidation or reprisal.

Acknowledgment, access to justice, and redress

- Issue a public apology on behalf of the Iraqi State to survivors and relatives of disappeared persons, acknowledging their suffering.
- Establish a Central Record of Missing Persons accessible to the public.
- Ensure access to justice for victims and their families.

- Provide certificates of absence to all families of the disappeared, whether allegedly affiliated with ISIL or not, as opposed to issuing “death certificates” following lengthy courtroom procedures.
- Set aside funds to provide monetary and non-monetary forms of redress to survivors and victims’ family members as well as to affected communities.
- Consider establishing a truth-telling/seeking process with institutions empowered to address violations committed by all parties to the conflict.

Legal framework

- Pursue efforts to enact the Bill on the Protection of Persons from Enforced Disappearance, to criminalize such acts and to address Iraq’s obligations under the International Convention for the Protection of All Persons from Enforced Disappearance, including as outlined in the Concluding Observations of the Committee on Enforced Disappearances.

The law should ensure the following:

- Establishment of enforced disappearance as a separate crime.
 - Establishment of a mechanism for collecting accurate and disaggregated statistics on enforced disappearances.
 - Implementation of superior responsibility as a mode of liability for enforced disappearances.
 - Punishments that are proportionate to the gravity of the offences.
 - Access to justice, redress, compensation and rehabilitation for victims.
 - Preventive measures, including establishment of an official, centralized database for persons deprived of their liberty.
- Envisage accepting the competence of the Committee on Enforced Disappearances to consider individual and inter-State complaints.

Compliance and procedural safeguards

- Establish an adequately resourced liaison office responsible for reaching out pro-actively to victims’ families and keeping them informed about the fate and whereabouts of their family members and the status of investigations.
- Ensure and facilitate full access for all human rights institutions to all detention facilities.
- Establish a formal policy and procedures enabling the systematic registration of detained persons in all facilities in a countrywide database, which should be regularly updated.