

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
AL IRQ 5/2021

15 November 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 41/12, 45/3, 44/5, 43/4 and 43/16.

We are writing to follow-up on the cases we have previously raised with your Excellency's Government concerning alleged extrajudicial killings, abductions and enforced disappearances, subject of **Joint Urgent Appeal IRQ 2/2021 of 23 March 2021, Joint Allegation Letter IRQ 3/2020 of 3 June 2020, and Joint Urgent Appeal IRQ 5/2019 of 8 November 2019**. We thank your Excellency's Government for the reply received to IRQ 3/2020, however, we regret that to date, no response has been received to the two urgent appeals.

In this connection, we would like to inquire about the actions your Excellency's Government has taken to ensure accountability on these cases, which are illustrative of serious human rights violations against peaceful protesters, civil society and activists in relation to their involvement with the popular demonstrations (*'Tishreen Demonstrations'*) that erupted across central and southern Iraq in October 2019.

Further, on the occasion of the two-year anniversary of the *'Tishreen Demonstrations'*, we take the opportunity to ask your Excellency's Government on the progress made thus far, to bring to justice those State and non-State actors found responsible for the serious human rights violations committed in the context of the *'Tishreen Demonstrations'*, and to reveal the fate and whereabouts of activists allegedly subjected to enforced disappearance.

Since October 2019,¹ in several communications to your Excellency's Government by Special Procedures mandate holders, serious concerns were raised about alleged **killings, kidnapping, enforced disappearance, arbitrary arrest and detention, and deliberate targeting** of human rights defenders, civil society activists and journalists in the context of the demonstrations. The demonstrators protested against the political system that was perceived as structurally corrupt and vulnerable to interference. The demonstrators also called for the fulfilment of economic and social rights, including employment and access to basic services.

¹ See IRQ 4/2019, IRQ 5/2019, IRQ 6/2019, IRQ 3/2020, IRQ 5/2020, IRQ 6/2020.

Following-up on the progress of investigations and prosecutions on specific cases:

Case of Mr. Jasib Hattab Abboud Al Heliji

Regarding the alleged extrajudicial killing of human rights defender Mr. **Jasib Hattab Abboud Al Heliji**, on 10 March 2021 by individuals linked to the Iraqi armed forces (subject of IRQ 2/2021 of 23 March 2021). Mr. Al Heliji had been vocal about the disappearance of his son, the human rights defender Mr. Ali Jasib Hattab Al Heliji, who remains forcibly disappeared since 2019 (see below). The alleged killing of Mr. Al Heliji is illustrative of the pattern of threats and intimidation faced by victims seeking accountability for victims of violations linked to the demonstrations. On 29 September 2021, the Missan Criminal Court convicted and sentenced to death one individual for the killing of Mr Al Heliji, and the court acquitted a second defendant citing lack of evidence. However, it is believed that more perpetrators still remain at large.

Cases of Mr. Ahmed Abdul Samad and Mr. Safaa Ghali

Regarding the assassination of Mr. **Ahmed Abdul Samad** and Mr. **Safaa Ghali**, who were journalists for the Iraq news agency Diljah TV (**AL IRQ 3/2020** of 3 June 2020), both killed following an apparent targeted attack by unidentified gunmen on 10 January 2020, in the city of Basra. Mr. Samad was a well-known journalist and human rights defender who had reported on the protests and published news stories critical of ‘pro-Iranian militia’ operating in Basra with impunity. On 6 October 2020, your Excellency’s Government informed us that “*the investigations are still ongoing by Basra Governorate, Directorate for Intelligence and Combating Terrorism to reveal the details and circumstances of that crime.*” This information came more than eight months after the families of both journalists filed a complaint at the Al Riba police station in Basra city on 17 January 2020, and subsequently provided testimonies to the Investigative Judge at the Basra Investigative Court. On 15 February 2021, four suspects were arrested on suspicion of the killing. On 1 November 2021, the Basra Criminal Court convicted one defendant and sentenced him to death for the killing of the journalists under Article 4 of the Anti-Terrorism Law (2005), while no charges have yet been brought against the other three suspects.

Case of Mr. Ali Jasib Hattab Al Heliji

Regarding the alleged enforced disappearance of the human rights defender Mr. **Ali Jasib Hattab Al Heliji** (IRQ 6/2020 of 9 November 2020), who was abducted by individuals allegedly belonging to the Popular Mobilization Units (PMU, part of the Iraqi security forces) on 8 October 2019 in Amarah. Prior to his alleged enforced disappearance, he was threatened by armed PMU members who warned him to stop speaking out on Facebook about the killing of individuals participating in the demonstrations. Mr Al Heliji provided legal representation for individuals arrested in connection with their participation in the peaceful demonstrations that took place in several cities in Iraq during

2019, including in the Maysan Governorate. He was also a vocal critic of human rights violations, including killings, alleged to have been committed in the context of the demonstrations by the PMU. The case of Mr. Al Heliji is also a subject of an urgent action by the Committee on Enforced Disappearances (UA 785/2019). We are deeply concerned that the fate and whereabouts of Mr. Al Heliji remain unknown.

Case of Ms. Saba al-Mahdawi

Regarding the abduction of a woman human rights defender Ms. **Saba al-Mahdawi**, (**IRQ 5/2019** of 8 November 2019), who had participated in several demonstrations and volunteered to provide emergency medical aid to injured protestors. She was allegedly abducted by masked armed individuals on 2 November 2019 in Baghdad. Her fate and whereabouts were unknown for eleven days. On 13 November 2019, Ms al-Mahdawi was released. The case of Ms. al-Mahdawi was the subject of an urgent action by the Committee on Enforced Disappearances (793/2019). The Iraqi High Commission for Human Rights confirmed that Ms. al-Mahdawi had been abducted and also urged the security forces to investigate the matter. However, we regret that your Excellency's Government has not responded or provided information on the steps taken to investigate the abduction and enforced disappearance of Ms. al-Mahdawi, and bring the perpetrators to account, including those who ordered her enforced disappearance.

Moreover, we are deeply concerned as we continue to receive information about ongoing serious human rights violations and abuses against activists connected to the protests, against the backdrop of impunity for these alleged violations. Most recently in communication **IRQ 3/2021 of 12 August 2021**, we brought to your attention the cases of the unlawful killings of the following activists and human rights defenders: Mr. **Hassan Ashour** killed on 15 April 2021 in front of his house in Dhi Qar province by unidentified individuals; Mr. **Ihab Jawad Al-Wazni**, a civil society activist and head of the Karbala Coordination for the Civil Movement, a group involved in the organisation of protests in Karbala, was shot and killed in front of his house in the Karbala by unidentified men on 8 May 2021; Mr. **Fahim Al-Tai**, a colleague of Mr. Al-Wazni's at the Karbala Coordination for Civil Movement, was also shot and killed in Karbala by two masked men on 8 December 2019. Notably, before being murdered, Mr. Al-Wazni and Mr. Al-Tai had reported receiving threats from unidentified armed elements, which suggests their murder is clearly linked to their activism. As we noted that investigations had reportedly been carried out in at least one of these cases, but no prosecutions for these killings were achieved yet.

We also raised alarm about the continuous abductions by non-state actors of human rights defenders and civil society activists who had participated in the demonstrations. Most recently in communication **IRQ 3/2021**, we brought to your attention a number of such cases of human rights defenders and activists subjected to abductions, such as: Mr. **Haider Khashan**, a civil society activist who had been peacefully participating in demonstrations, and who was allegedly abducted and released a few hours later by unknown gunmen in Samawa City on 1 April 2021; Mr. **Abbas Al-Rafi'i**, a journalist, poet and civil society activist who has covered demonstrations in Iraq as a reporter, was abducted by unidentified armed actors in Karbala, on 2 May 2021 and released on 6 May 2021.

Without prejudging the accuracy of the allegations, we express grave concern of the prevailing impunity for the killings, abductions and enforced disappearances of peaceful activists and human rights defenders, which are ongoing. We regret to note that despite the formation of various investigative bodies and committees set up by your Excellency's Government since 2019, and the initiation of investigations by the authorities, there has not been much demonstrable progress to ensure prosecutions of the alleged State and non-State perpetrators and those who issued the orders for the commission of the crimes against thousands of victims of demonstration-related violations.² With the ongoing trend of human rights violations against civil society actors, human rights defenders and organisations linked to the demonstrations, the persistent impunity for these violations has created a climate of fear and has emboldened the perpetrators who continue to kill, abduct and forcibly disappear activists, human rights defenders and journalists.

We are also deeply concerned about the lack of effective investigations to determine the fate and whereabouts of the scores of victims of abductions by 'unidentified armed elements' and of those subjected to enforced disappearances.

In addition, we are concerned that the victims' right to remedy has not been adequately fulfilled. Compensation programmes set-up to provide monetary compensation to the families of those killed during the demonstrations and other victims of demonstration-related violence, have not been adequately implemented. The processes can be lengthy and burdensome for the victims and their families.³

We would like to remind your Excellency's Government of the obligation to conduct prompt, thorough and impartial investigations into serious human rights violations and to provide justice, truth and reparations to the victims. Further, we reiterate that the access to justice is an integral element of the protection of the rights to freedom of peaceful assembly and of association, which in turn contributes to the establishment of the rule of law.

² See UNAMI, Accountability for Human Rights Violations and Abuses by Unidentified Armed Elements, May 2021, Baghdad, https://reliefweb.int/sites/reliefweb.int/files/resources/UNAMI_Report_Accountability_for_Human_Rights_Violations_and_Abuses_300521.pdf
UNAMI, Accountability for Human Rights Violations and Abuses by Unidentified Armed Elements, May 2021, Baghdad.

We would also like to remind your Excellency's Government that the provision of compensations does not replace the State's obligation to uphold the rights of the victims to truth, reparations and justice by investigating human rights violations and providing information on the circumstances behind the death and injury of demonstrators and those subjected to enforced disappearance.

In addition, we are deeply concerned at the sentencing of those who have taken part in the demonstrations, which serves to criminalize peaceful assembly. This appears to be part of a strategy of the authorities to discourage others from joining the demonstrations and to silence civil society activists and human rights defenders engaged in peaceful demonstrations in the country.

Due to fear of reprisals, activists linked to the protests, and also subjected to smear campaigns, had to flee Federal Iraq, and are unable to return.

In connection with the above-alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your prompt response on the following:

1. Please provide information on the number of investigations conducted so far, the number of arrests made in connection to these cases, and the number of cases moved to the prosecution stage, and the types of charges, in relation to all human rights violations linked to the '*Tishreen Demonstrations*'.
2. Please provide information on the steps taken to locate those who have been forcibly disappeared; and to bring to justice perpetrators responsible for abductions and enforced disappearances of activists in connection to the demonstrations, including perpetrators belonging to the State security apparatus or non-State armed groups. What measures have been taken to prevent future abductions and enforced disappearances?
3. Please provide information on the steps taken, and the results, of any investigation carried out into the killings, including to identify the masterminds behind the killing and those who may have ordered the killings, of: **Mr. Ahmed Abdul Samad, Mr. Safaa Ghali, Mr. Jasib Al Heliji, Mr. Hassan Ashour, Mr. Ihab Jawad Al-Wazni and Mr. Fahim Al-Tai.**
- 3.1. Also please provide information if in the case of **Mr. Jasib Al Heliji** the investigations have found whether your Excellency's Government knew or should have known that the victim was at risk and could have prevented his death.

4. Please provide information on the steps taken, and the results, of any investigation carried out into the alleged abductions and enforced disappearances of Ms. **Saba al-Mahdawi**, Mr. **Ali Jasib Hattab Al Heliji**, Mr. **Haider Khashan** and Mr. **Al-Rafi'I**, including the steps taken to bring to account the alleged perpetrators, including those who ordered the violations. In particular, please provide information on the steps taken to search for those among these individuals whose fate and whereabouts remain unknown to date and inform their relatives accordingly.
5. Please provide information on the number of cases of victims to whom compensation was provided as a reparation for the human rights violations committed against them or their family members in the context of the '*Tishreen Demonstrations*'. How have been the cases selected or prioritized? If any applications for compensation have been rejected, why and on what basis?
6. Please provide information how the rights to fair trial, including access to lawyers during the investigative phase, have been upheld during the trials of the alleged offenders of demonstration-related violations, especially in the cases where offenders have been sentenced to death? Please provide information on the reasons for charging some of the offenders under the Anti-Terrorism Law (2005), such as for the killing of Mr. **Ahmed Abdul Samad** and Mr. **Safaa Ghali**.
7. Please provide information on the steps taken to provide protection to lawyers, family members and survivors of demonstration-related violence who cooperate with the investigations and prosecutions, especially concerning cases of violations allegedly committed by armed militia and armed groups.
8. Please provide information on the steps taken to provide protection to the families of the disappeared who have been at risk, such as to the family members of **Mr. Ali Jasib Hattab Al Heliji**.
9. Please provide information on the steps taken by the authorities to ensure human rights defenders can continue their activism and enjoy their rights to freedom of assembly and association offline and online without fear of reprisals. If no such steps have been taken, please indicate a manner in which we may be able to engage with your Excellency's Government as to the development and implementation of such measures.
10. Please provide information on the number of individuals who have been charged for offences related to their participation in the protests; what types of offences have they been charged with and on what legal grounds?
11. Please explain, how the arrests and prosecutions of activists engaged in the peaceful demonstrations, are compatible with your Excellency's Government obligation under international human rights law in regards to ensuring a safe space for civic participation and prevention of

criminalization of human rights defenders, social activists, lawyers and journalists.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to where appropriate, provide protection and prevent any irreparable harm to the life and personal integrity of the persons concerned, to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations, including those who have ordered the crimes.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

The above-mentioned allegations appear to be in contravention of articles 6, article 7, 9, 19, 21, and 22, read alone and in conjunction with article 2(3), of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iraq on 25 January 1971.

Article 6 (1) of the ICCPR provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. In elaborating on article 6 in its General Comment No. 36, the Human Rights Committee recalled that State parties must ensure the right to life and exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State (CCPR/C/GC/36, para. 7). In the same General Comment, the Human Rights Committee also stated that the obligation of State parties to respect and ensure the right to life extends to reasonably foreseeable threats, and that State parties may be in violation of article 6 even if such threats do not result in the loss of life (GC36). Further, States parties are under a due diligence obligation to take reasonable, positive measures, in response to reasonably foreseeable threats to life originating from private persons and entities whose conduct is not attributable to the State. Hence, States parties are obliged to take adequate preventive measures in order 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 (GC 36, para. 21). In this respect, States parties are also obliged to disband irregular armed groups, such as private armies and vigilante groups, that are responsible for deprivations of life and reduce the proliferation of potentially lethal weapons to unauthorized individuals. (GC 36, para. 21).

Also the duty to protect the right to life requires State parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence, such as human rights defenders (GC36, para. 23).

Furthermore, we recall that an important element of the protection afforded to the right to life by the ICCPR is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequences.⁴ State parties are also obliged to prevent, investigate, punish and remedy arbitrary deprivation of life by private entities. (GC36, para. 21).

Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity. Investigations must seek to identify not only direct perpetrators but also all others who were responsible for the death, including, for example, officials in the chain of command who were complicit in the death. The investigation should seek to identify any failure to take reasonable measures which could have had a real prospect of preventing the death. It should also seek to identify

⁴ CCPR/C/GC/36.

policies and systemic failures that may have contributed to a death, and identify patterns where they exist (para 26). Investigations must always be independent, impartial, prompt, thorough, effective, credible and transparent. In the event that a violation is found, full reparation must be provided, including adequate measures of compensation, rehabilitation and satisfaction. States parties are also under an obligation to take steps to prevent the occurrence of similar violations in the future (Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)).

The Human Rights Committee in its General Comment No. 36, also stated that extreme forms of arbitrary detention, in particular enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life. The Committee also found that the failure to respect the procedural guarantees found in article 9, paragraphs 3 and 4, designed inter alia to prevent disappearances, could also result in a violation of article 6, the right to life (CCPR/C/GC/36, para. 57). Furthermore, the deprivation of liberty, followed by a refusal to acknowledge that deprivation of liberty or by concealment of the fate of the disappeared person, in effect removes that person from the protection of the law and places his or her life at serious and constant risk, makes the State accountable. (GC 36, para. 58). General Comment No. 36 on the right to life, also reiterates the States parties responsibilities to take adequate measures to prevent the enforced disappearance of individuals, and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance. States parties should also ensure that the enforced disappearance of persons is punished with appropriate criminal sanctions and introduce prompt and effective procedures to investigate cases of disappearances thoroughly, by independent and impartial bodies that operate within the ordinary criminal justice system. Perpetrators of such acts or omissions must be brought to justice and ensure that victims of enforced disappearance and their relatives are informed about the outcome of the investigation and are provided with full reparation. Under no circumstances should families of victims of enforced disappearance be obliged to declare them dead in order to be eligible for reparation (GC 36, para. 58).

Article 9 (1) of the ICCPR establishes the right of all persons to liberty and security of person, including freedom from arbitrary arrest or detention. The Human Rights Committee in its General Comment No. 36 underlined that enforced disappearance are a grave threat to life; and results in a violation of the right to life, article 7 (prohibition of torture or cruel, inhuman or degrading treatment or punishment), article 9 (liberty and security of persons), and article 16 (right to recognition of a person before the law) of the ICCPR (GC 36, para. 58).

Further, in its General Comment 35, the Human Rights Committee underlined that arrest or detention as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, as well as freedom of association and assembly, is arbitrary (GC 35, para. 17).

As established by the Human Rights Committee in its General Comment No. 35 concerning Article 9 (Liberty and security of person), State parties are obliged to take appropriate measures to protect individuals from foreseeable threats to life or bodily integrity proceedings from any governmental or private actors. The right to security of persons obliges State parties to respond appropriately to patterns of violence against categories of victims such as intimidation of human rights defenders and journalists, and retaliation against witnesses (CCPR/C/GC/35, para. 9).

Further, we would like to refer to Article 17 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED),⁵ which stipulates that no one shall be held in secret detention. Article 18 of the ICPPED further provides that States must guarantee access to information regarding persons deprived of liberty to anyone with a legitimate interest such as relatives, their representatives or counsel. Article 6 of the ICPPED provides that States shall take all necessary measures to hold criminally responsible any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance. No 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 (ICPPED, Article 1.2).

Under ICPPED, State parties are also obliged to take appropriate measures to investigate acts of enforced disappearance committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice (ICPPED, Article 3). In addition, we would like to draw your attention to articles 12 and 24 of the ICPPED which highlight the State's obligation to undertake an investigation, even if there has been no formal complaint; to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given and that victims of enforced disappearance or those directly affected by it have a right to obtain reparation and compensation.

We further draw your Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which establishes that no State shall practice, permit or tolerate enforced disappearances. The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. We recall that the Declaration sets out the necessary protection to be ensured by States regarding all persons deprived of liberty. In particular articles 7, 10, 12, 13, 16 of the Declaration establish that no circumstances whatsoever, may be invoked to justify enforced disappearances; to ensure access to a prompt and effective judicial remedy; to ensure competent national authorities have access to all places of detention; to ensure persons deprived of liberty be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to provide accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest; to ensure maintaining of an official up-to-date registers of all detained persons in every place of detention; and authorities to suspend persons presumed responsible for such acts from any official duties during the investigation and try them only by the competent ordinary courts. Also, article 19 of the Declaration provides that victims of acts of enforced disappearance and their families shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.

⁵ To which Iraq has acceded on 23 November 2010.

We also draw the attention of your Excellency's Government to the report of the Working Group on Enforced or Involuntary Disappearances on standards and public policies for an effective investigation of enforced disappearances, published on 7 August 2020 (A/HRC/45/13/Add.3). The report highlighted that completion of the criminal investigation, along with any conviction or acquittal of the persons accused of having committed an offence of enforced disappearance, should not constitute an obstacle to the continuation of search activities or be invoked to justify their suspension. These activities should be pursued until it has been possible to determine with certainty the circumstances of the disappearance and the fate and whereabouts of the disappeared person or their remains. A failure to investigate would amount to a violation of the ICCPR itself.

Furthermore, we would like to refer to the general comment on women affected by enforced disappearances (A/HRC/WGEID/98/2), which stresses, *inter alia*, the differentiated effects of enforced disappearances in women and girls. In particular, States must acknowledge disappeared women, and recognize the particular types of harm they suffer based on their gender, including instances of sexual violence and forced impregnation, and the resulting psychological damage and social stigma as well as the disruption of family structures.

Article 19 of the ICCPR guarantees the right of all persons to freedom of opinion and expression, encompassing the freedom to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, *inter alia*, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (para. 11). Any restrictions on freedom of expression must be strictly limited and meet the high threshold set out in article 19 (3) of the Covenant, following which any limitations must be determined by law and conform to the strict tests of necessity and proportionality. As underlined by the Human Rights Committee in its General Comment No. 34, it is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). An attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest and torture, can under no circumstance be compatible with article 19 (GC 34, para. 23). All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress (GC 34, para. 23).

Article 21 of the ICCPR protects the right to peaceful assembly, stating that no restrictions may be placed on the exercise of the right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests 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. The Human Rights Committee in its General comment No. 37 (2020) on the right of peaceful assembly (article 21), stated that the authorities must show that any restrictions on the right to freedom of peaceful assembly meet the requirement of legality, and are also both necessary for and proportionate to at least one of the permissible grounds for restrictions enumerated in article 21. The onus is on the authorities to justify any restrictions and where this onus is not met, States violate article 21 of the ICCPR. The imposition of any restrictions should aim at facilitating the right, rather than seeking unnecessary and disproportionate limitations on it. Restrictions must not be discriminatory, impair the essence of the right, or be aimed at

discouraging participation in assemblies or causing a chilling effect. (GC 37, para 36) The prohibition of a specific assembly can be considered only as a measure of last resort. Where the imposition of restrictions on an assembly is deemed necessary, the authorities should first seek to apply the least intrusive measures (GC 37, para 37). General Comment 37 also stated that blanket restrictions on peaceful assemblies are presumptively disproportionate; and that restrictions on participation in peaceful assemblies should be based on a differentiated or individualized assessment of the conduct of the participants and the assembly concerned (GC 38, para 38).

Additionally, General Comment 37 stressed the obligations of States “to investigate effectively, impartially and in a timely manner any allegation or reasonable suspicion of unlawful use of force or other violations by law enforcement officials, including sexual or gender-based violence, in the context of assemblies. Both intentional and negligent action or inaction can amount to a violation of human rights. Individual officials responsible for violations must be held accountable under domestic and, where relevant, international law, and effective remedies must be available to victims.” (GC 37, para. 90).

The right to freedom of association under article 22 of the ICCPR requires States parties to take positive measures to establish an enabling environment for associations. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to, for example, any threats, acts of intimidation or violence. States additionally have a negative obligation not to unduly obstruct the exercise of the exercise of the right. Associations, pursuing objectives and employing means in accordance with international human rights law should benefit from international legal protection (A/HRC/20/27, paras. 63 and 64).

We would like to also refer your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We would further like to refer to articles 5(a), 9 and 12(2) of the Declaration, which hold that all persons, individually or in association with others, have the right to meet or assemble peacefully for the purpose of promoting and protecting human rights and fundamental freedoms; that everybody has the right to benefit from an effective remedy in the case of the violation of these rights and freedoms; and that everyone has the right, individually or in association with others, to participate in peaceful activities against violations of these rights and freedoms.

Further, to your Excellency’s Government obligation to ensure accountability for human rights violations, we would like to remind you of the positive obligations imposed by the ICCPR on States parties “to respect and to ensure” all the rights in the ICCPR (art. 2 (1)); to take legal and other measures to achieve this purpose (art. 2 (2)); and to pursue accountability, and provide effective remedies for violations of Covenant rights (art. 2 (3)), as reiterated by General Comment 31 (CCPR/C/21/Rev.1/Add. 1326 May 2004, and General Comment 37, para. 21). General Comment 31 further states that with failure of the State to investigate, failure

to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant, especially for violations recognized as criminal, such as torture and similar cruel, inhuman and degrading treatment (article 7), summary and arbitrary killing (article 6) and enforced disappearance (articles 7 and 9 and, frequently, 6) (GC 31, paragraph 18). It further stated that impunity for these violations, may well be an important contributing element in the recurrence of the violations.

Further, we would like to draw your attention to the UN Updated Set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1). Principle 1, regarding the General obligations of States to take affective actions to combat Impunity, states that impunity arises from a failure by States to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations; and to take other necessary steps to prevent a recurrence of violations.

Further, the UN 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, provide that States have obligations to provide equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.

As set by the Basic Principles, reparations can be in the forms of restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice perpetrators of human rights violations, while considering the situation of vulnerability of certain groups.

Finally, we would like to remind your Excellency's government of the commitments made during the Iraq's Universal Periodic Review of the Human Rights Council thirty-fourth session, held in November 2019, during which you have accepted a number of recommendations regarding ensuring a prompt, independent and effective investigation and bringing accountability for violations, such as the use of excessive use of force against civilians during the October demonstrations. (See 147.167, 176, 181, 190, 201, A/HRC/43/14/Add.1 - Para. II (a)); and also to "Put an immediate halt to intimidation and violence targeting journalists, especially during protests" (147.186, A/HRC/43/14/Add.1 - Para. II (a)).