



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Report of the Committee on Enforced Disappearances on its visit to Iraq under article 33 of the Convention** **

Information on the visit and findings (art. 33, para. 1)

I. Programme of the visit and cooperation by the State party

1. In November 2015, the Committee requested to undertake a country visit to Iraq in compliance with its mandate under article 33 of the Convention. On 15 November 2021, the State party officially confirmed its agreement to the visit, thereby expressing its openness to international scrutiny and support regarding a situation of great concern relating to disappearances.

2. The Committee's visit took place from 12 to 25 November 2022. It was carried out by a delegation comprising three Committee members.¹ At the end of the visit, the delegation presented preliminary findings to the State party and released a preliminary statement to highlight some of the aspects that it had observed during its time in the country (see annex 1),² without prejudice to the content of the present report.³

3. The Committee particularly welcomes the cooperation and the facilities provided by the State party before and during the visit, both at the federal and the regional levels, including in the Kurdistan Region of Iraq. These were indispensable in enabling the Committee to confirm most of the requested visit and to carry out its scheduled activities. The delegation visited Anbar, Baghdad, Erbil, Mosul and Sinjar. It held 24 meetings with more than 60 authorities, and meetings with four delegations of the High Commission for Human Rights in the governorates visited, and had seven meetings with 171 victims and with civil society organizations from Anbar, Baghdad, Kirkuk, Diyala, Erbil, Ninewa and Salah al-Din Governorates. The delegation was able to observe two exhumations and visited a provisional centre for DNA identification in Sinjar. The delegation also visited the Medico-Legal Directorate and four places of deprivation of liberty.⁴ The delegation held consultative meetings with the United Nations presence in Iraq and representatives of member States, as well as international organizations involved in the fight against disappearances (see annex 2: list of meetings).

4. The Committee appreciates the readiness of all its interlocutors to engage in dialogue and to provide particularly valuable information and documentation. It is also grateful for the

* The present report should be read in conjunction with CED/C/IRQ/VR/1 (Recommendations).

** Adopted by the Committee at its twenty-fourth session (20–31 March 2023).

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² The annexes are available from

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCED%2FVRD%2FIRQ%2F52197&Lang=en.

³ CED/C/IRQ/VR/1 (Findings) and CED/C/IRQ/VR/1 (Recommendations).

⁴ CED/C/IRQ/VR/1 (Recommendations), para. 58.



support provided by the Office of the United Nations High Commissioner for Human Rights and the United Nations Assistance Mission for Iraq (UNAMI) prior to and during the visit. Lastly, the Committee is especially grateful to the families and relatives of disappeared persons for their testimonies, insights and proposals, and wishes to draw public attention to their daily struggle.

5. The Committee welcomes the willingness of the State to strengthen its cooperation and interaction with the Committee and the Working Group on Enforced or Involuntary Disappearances, under their respective mandates. In that connection, the Committee recalls that its visit constitutes a new step in its interaction with Iraq, one of the first countries to ratify the Convention. Iraq has always submitted its reports under article 29 of the Convention in a timely manner, and it was the first State party that accepted to hold an interactive dialogue fully online with a treaty body, thereby allowing it to interact with the Committee despite the limitations imposed by the coronavirus disease (COVID-19) pandemic. The Committee also thanks the State party for the information transmitted on 13 March 2023, but regrets the delay in receiving that reply,⁵ and the fact that the answers provided only partially answer the questions raised.

6. Through the procedures contained in the Convention, the Committee has already transmitted specific recommendations to the State party to promote the prevention and eradication of enforced disappearance. This includes the recommendations adopted on the occasion of the examination of the reports of the State party, and the respective follow-up thereto in 2015, 2016, 2020 and 2022, and the recommendations transmitted in each of the registration and follow-up letters sent to the State party under the urgent action procedure, under which the Committee had registered 578 individual cases relating to Iraq as at 29 March 2023. The Committee notes with satisfaction that communication with the State party has increased in that regard, but much remains to be done: the majority of the registered requests for urgent action remain unanswered, and the information transmitted by the State party does not reflect actions to implement the Committee's recommendations. The Committee has signalled this lack of compliance by Iraq with its obligations under article 30 of the Convention, in its past five reports submitted to the General Assembly.⁶ The Committee recalls that as the urgent action procedure is aimed at supporting authorities and victims in the search and investigation process, the success of such procedure depends on the actions taken to implement the recommendations conveyed.

7. The Committee underlines its willingness to strengthen a constructive and trustful interaction with the State party, to support the implementation of the Convention to eradicate and prevent enforced disappearances, to fight against impunity, and to ensure that all victims have access to truth, justice and full reparation, regardless of their ethnic, religious or national origin, and of the national origin of the alleged perpetrators, and the time, location and circumstances of the disappearances.

8. All the findings, conclusions and recommendations contained in the two parts of this report are transmitted to the State party with this objective in mind. They result from a thorough analysis of the duly verified public and confidential information received by the Committee.

II. Context, trends observed, and actions taken by the State party

A. Historical and current patterns

9. Following decades of conflict and political violence, disappearances, including enforced disappearances,⁷ have been identified as “a problem of massive proportions in

⁵ The delegation first transmitted its questions through email sent to the State party's focal points, on 13 November 2022. Reminders were sent on 20 November 2022, 13 January 2023 and 24 February 2023.

⁶ [A/73/56](#), [A/74/56](#), [A/75/56](#), [A/76/56](#) and [A/77/56](#).

⁷ See paras. 49–54 below.

Iraq”.⁸ The figures referred to in publications and official documents give an estimated range of between 250,000 and 1 million disappeared persons and undoubtedly confirm the enormous scale of disappearances in the country. As of today, it is impossible to provide more precise figures. Nonetheless, the current estimates and available information allow the identification of a large variety of patterns.

10. The Committee notes the different waves and patterns of disappearances, including enforced disappearances, reflected in the documentation provided to it and throughout the exchanges with its interlocutors: (a) the Baath era in federal Iraq and the Kurdistan Region (1968–2003); (b) from the 2003 invasion and subsequent occupation to the pre-Da’esh period; (c) the proclamation by ISIL⁹ (hereinafter referred to as “Da’esh”)¹⁰ of an Islamic caliphate over part of the territory of Iraq and military operations against Da’esh (2014–2017); (d) the 2018–2020 anti-government protests; and (e) ongoing patterns.

11. In all these contexts, the alleged perpetrators include State security agents, foreign military forces, and armed actors commonly referred to as “militias” that have various levels of affiliation or proximity with the State and State agents or, on the contrary, act without the authorization, support or acquiescence of the State.¹¹ All of the Iraqi population, whatever their ethnic and religious group, have been affected.

The Baath era in federal Iraq and the Kurdistan Region (1968–2003)

12. The “Baath era” (1968–2003) was characterized by violent internal repression and widespread human rights abuses. This period precedes the entry into force of the Convention. The Committee takes these enforced disappearances into account, given their continuing nature, both to better understand the current challenges and obligations of the State party in that regard, and to identify the measures to be taken in a way that is adapted to the reality of the country.¹²

13. Saddam Hussein intended to establish a one-party State in the hands of the Baath Party. Competing parties, particularly the Communist Party and the Islamic Dawa Party, were identified as internal enemies and were suppressed, including through enforced disappearance.¹³ In addition, the regime engaged in armed violence against Kurds demanding autonomy. It is estimated that up to 290,000 persons were forcibly disappeared during this period,¹⁴ including an estimated 100,000 Kurds who were forcibly disappeared as part of

⁸ International Commission on Missing Persons, Iraq page, available at <https://www.icmp.int/where-we-work/%20middle-east-and-north-africa/iraq/>; International Committee of the Red Cross, “Iraq: families of the missing, between hope and despair, the search continues”, 31 August 2022, available at <https://www.icrc.org/en/document/iraq-families-missing-between-hope-and-despair-search-continues>; and Miriam Puttick, “The forever crime: ending enforced disappearance in Iraq” (Ceasefire Centre for Civilian Rights, December 2020), available at https://www.ceasefire.org/wp-content/uploads/2021/01/CFR_Iraq_EN_Jan21.pdf.

⁹ References to ISIS (Islamic State in Iraq and Al-Sham) are maintained as such when these appear in quotation marks.

¹⁰ In line with the usage in S/2023/76.

¹¹ European Union Agency for Asylum, *Country Guidance: Iraq*, June 2022, p. 74.

¹² Statement by the Committee on Enforced Disappearances on the *ratione temporis* element in the review of reports submitted by States parties under the International Convention for the Protection of All Persons from Enforced Disappearance, available from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCED%2FSUS%2F7250&Lang=en; and Inter-American Court of Human Rights, *Velásquez Rodríguez v. Honduras*, Merits, Judgment, 29 July 1988, Series C No. 4, para. 155; *Heliodoro Portugal v. Panama*, Preliminary Objections, Merits, Reparations and Costs, Judgment, 12 August 2008, Series C No. 186, para. 106; and *Tiu Tojín v. Guatemala*, Merits, Reparations and Costs, Judgment, 26 November 2008, Series C No. 190, para. 84. The European Court of Human Rights has also considered the continuous or permanent nature of the forced disappearance of persons. See *Cyprus v. Turkey* (application No. 25781/94), judgment of 10 May 2001, paras. 136, 150 and 158.

¹³ CED/C/IRQ/1, para. 18.

¹⁴ Human Rights Watch, “Justice for Iraq”, policy paper, December 2002, available at <https://www.hrw.org/legacy/backgrounder/mena/iraq1217bg.htm>.

Saddam Hussein's genocidal campaign in Iraqi Kurdistan.¹⁵ The majority of these persons were rounded up during the Anfal campaign from February to September 1988. Many persons displaced from Halabja¹⁶ returned from neighbouring countries but were arrested by Iraqi security forces and held in detention camps or prisons,¹⁷ often incommunicado.

14. During the war between the Islamic Republic of Iran and Iraq, from 1980 to 1988, civilians on both sides of the borders were affected by the military operations and hundreds disappeared.¹⁸ The Government of Iraq expelled over half a million Shia from Iraq on the presumption that they were loyal to the Islamic Republic of Iran. It is estimated that before the expulsion, 50,000 to 70,000 men and boys were imprisoned and disappeared.¹⁹ Thousands of Iraqi families still hope that their loved ones might be alive, held in Iranian detention camps.

15. In 1990, the Iraqi invasion and occupation of Kuwait resulted in the arrest and disappearance of over 600 Kuwaitis and third-country nationals. Following the end of the Gulf War, members of the Shia population in southern Iraq staged an uprising against the Government of Iraq. In response, government forces detained and disappeared thousands of Shia, including religious clerics and students.²⁰

From the 2003 invasion and subsequent occupation to the pre-Da'esh period

16. From 2003 to the pre-Da'esh period, the military of the United States of America and its allies captured at least 200,000 Iraqis, of whom 96,000 were held at some point in prisons administered by the United States or the United Kingdom of Great Britain and Northern Ireland. According to available information, detainees were arrested without a warrant for their involvement in insurgency operations, while others were civilians who had been "in the wrong place at the wrong time".²¹ With the massive numbers of arrests, detainees were not properly registered and accounted for.²² Detainees were held indefinitely without charge,²³ while in many cases, the coalition did not notify detainees' families of their arrest: no information was provided about the identity of the persons arrested, their location, the reason for the arrest, or possible transfers. In such cases, they were forcibly disappeared for days, weeks, months or years until they could contact their families.²⁴

17. The de-Baathification policies implemented in that period were accompanied by the dismissal of large numbers of Sunnis from public sector positions, and the Iraqi army was

¹⁵ Iraqi High Tribunal, Second Criminal Court, Baghdad, Ref. No 1/CSecond/2006, judgment of 24 June 2007; "A critical guide to the Iraqi High Tribunal's Anfal judgement: genocide against the Kurds", *Michigan Journal of International Law*, vol. 30, issue 2 (2009), available at <https://core.ac.uk/download/pdf/232698481.pdf>; and Amnesty International, *Getting Away with Murder: Political Killings and 'Disappearances' in the 1990s* (London, Amnesty International, 1993), p. 14.

¹⁶ Thousands of people were displaced from Halabja following the indiscriminate chemical attack on 18 March 1988, during the closing days of the war between the Islamic Republic of Iran and Iraq, as part of the Anfal campaign in Kurdistan by the Baath regime.

¹⁷ CED/C/IRQ/1, para. 15.

¹⁸ Geneva International Centre for Justice, "Iraq: enforced disappearance, a widespread challenge", shadow report submitted to the Committee on Enforced Disappearances at its ninth session, from 7 to 18 September 2015, available at https://www.ecoi.net/en/file/local/1248147/1930_1461921847_int-ced-css-irq21467-e.pdf.

¹⁹ International Center for Transitional Justice, "Creation and first trials of the Supreme Iraqi Criminal Tribunal", briefing paper (New York, October 2005).

²⁰ Human Rights Watch, "Justice for Iraq", policy paper, December 2002.

²¹ Human Rights Watch, "'No blood, no foul': soldiers' accounts of detainee abuse in Iraq" (New York, July 2006), p. 1.

²² Miriam Puttick, "The forever crime: ending enforced disappearance in Iraq" (Ceasefire Centre for Civilian Rights, December 2020).

²³ International Federation for Human Rights and Global Policy Forum, Open letter to members of the Security Council concerning detentions in Iraq, 22 April 2008, available at <https://www.globalpolicy.org/images/pdfs/0422detention.pdf>.

²⁴ International Committee of the Red Cross, Report on the treatment by the coalition forces of prisoners of war and other protected persons by the Geneva Conventions in Iraq during arrest, internment and interrogation, February 2004; and *Yrusta v. Argentina* (CED/C/10/D/1/2013), para. 10.4.

dissolved. This situation fuelled the growth of armed groups commonly referred to as militias. During the worst period of violence, in 2006 and 2007, tens of thousands of people were disappeared. From 2006 to June 2007, around 20,000 bodies were dropped off at the Medico-Legal Institute in Baghdad. Most of them could not be identified.²⁵ Families rarely came to the morgue to claim the bodies, fearing retribution from security services.²⁶

18. Following the withdrawal of United States forces, disappearances, including enforced disappearances, continued, such as those perpetrated during a crackdown by Iraqi security forces in October 2011 against alleged members of the former Baath Party in Tikrit and several other governorates. Many of those who were detained in that context were disappeared.²⁷

19. During a military campaign called “Thár al-Shuhadá” or “Martyrs’ Revenge”, more than 1,000 people were arbitrarily arrested and countless others killed over two weeks. The first phase of the “Martyrs’ Revenge” operation took place from 1 to 12 August 2013. All those arrested and killed were labelled “terrorists”. By 20 August 2013, the number of arrests had reached 1,500. The then Government announced the arrest of thousands of “terrorists”, without providing any evidence of such affiliations.

Proclamation by Da’esh of an Islamic caliphate over part of the territory of Iraq and military operations against Da’esh (2014–2017)

20. On 10 June 2014, Da’esh took control of the city of Mosul. This launched Iraq into an internal armed conflict that lasted until 2017. Throughout that period, the victims included individuals affiliated or deemed to have previously been affiliated with the Government of Iraq, such as former public officials and electoral workers; professionals, such as doctors and lawyers; journalists; tribal and religious leaders; individuals from minority non-Islamic religions, including Christians and Yazidis; and female political candidates. Others were abducted and/or killed on the pretext of having aided or provided information to government security forces, or for their perceived sexual orientation. Many of these people are still disappeared. Some are presumed dead; others are believed still to be in Da’esh captivity or to have been trafficked out of Iraq.²⁸

21. Over the 2014–2017 period, Da’esh also carried out abductions and mass killings of members of the Iraqi army and security forces, such as the Camp Speicher massacre.²⁹ Ethnic and religious minorities were also targeted by acts amounting to enforced disappearance. On 3 August 2014 in the Yazidi-majority district of Sinjar, Da’esh abducted and disappeared thousands of women and girls for forced marriage or sexual slavery, while men and boys were separated, massacred and buried in mass graves.³⁰ It is estimated that around 6,800 Yazidis were abducted and around 3,100 killed over a period of a few days. An estimated 3,000 are still disappeared.³¹ Hundreds of Assyrian Christian, Shabak and Shia Turkmen women were also abducted from areas under Da’esh control, and the fate of many of them remains unknown.

22. According to the allegations received, the conflict with Da’esh also led to the growth of the predominantly Shia militias in Iraq: Following the collapse of the Iraqi army in Mosul, Grand Ayatollah al-Sistani issued a fatwa for men to join the fight to save their country. The

²⁵ United Nations Assistance Mission for Iraq (UNAMI), Human rights report, 1 November–31 December 2006, paras. 19–21, accessible at <https://usiraq.procon.org/sourcefiles/UNAMI.12-2006.pdf>.

²⁶ *Ibid.*, para. 21.

²⁷ See [A/HRC/22/NGO/157](https://www.unhcr.org/refworld/docid/5a9c1577.html).

²⁸ UNAMI and Office of the United Nations High Commissioner for Human Rights (OHCHR), “Unearthing atrocities: mass graves in territory formerly controlled by ISIL”, 6 November 2018, available from https://reliefweb.int/attachments/c99d9784-3dce-3ebe-9cb8-4b9a2d26b51a/UNAMI_Report_on_Mass_Graves4Nov2018_EN.pdf, pp. 3–4.

²⁹ *Ibid.*, p. 9.

³⁰ *Ibid.*, footnote 10 (on p. 4).

³¹ Office of the United Nations High Commissioner for Refugees, “COI note on the situation of Yazidi internally displaced persons in the Kurdistan Region of Iraq”, May 2019, available at <https://www.refworld.org/pdfid/5cd156657.pdf>, p. 1.

result was the formation of the Popular Mobilization Forces, an umbrella organization of new and existing militias which fought alongside Iraqi armed forces in the war against Da'esh. The Popular Mobilization Forces were brought under the control of the Prime Minister's Office in 2015 and subsequently legally incorporated into the Iraqi army and given equivalent salaries and ranks.³² However, in practice, the Government's control over the Popular Mobilization Forces factions is limited, as they each have an autonomous command structure and competing ideologies, with loyalty to various political and religious leaders.

23. Whatever this degree of affiliation, available information indicates that Popular Mobilization Forces units participated in military operations to retake major cities from Da'esh and controlled checkpoints and detention facilities across the country. "In the process, they detained scores of mostly Sunni men and boys" fleeing from areas controlled by Da'esh.³³ In Anbar Governorate, pro-government forces disappeared at least 1,000 mostly Sunni Arab men and boys over the course of military operations that took place in 2015 and 2016. The individuals were taken from security screening centres set up in Fallujah and Ramadi districts to intercept individuals suspected of affiliation with Da'esh.³⁴ The Committee received allegations that the Kurdistan Regional Government and its intelligence forces, the Asayish, were also implicated in abuses, including the enforced disappearance of individuals detained on suspicion of affiliation with Da'esh, mainly in Kirkuk Governorate.

24. According to the information submitted to the Committee, screening for potential Da'esh affiliates intensified in 2017, especially in the area of Mosul. It is alleged that families fleeing the city were stopped at screening sites run by Iraqi, Popular Mobilization Forces and Kurdish forces: "Men and boys were separated from their families and their names checked against the government 'wanted lists' of ISIS affiliates. However, names on the wanted lists included individuals who allegedly held non-combat roles with ISIS (such as cooks or drivers), individuals who were related to someone affiliated with ISIS, or people who had been accused by members of their community of belonging to ISIS. Moreover, due to the prevalence of similar names in Iraq, individuals could be detained simply for having the same name as someone on the list. Men and boys who did not pass the screening process were taken away, without notice to their families."³⁵ Since then, the families have been searching for their relatives, and many allege that State agents deny holding them, or refuse to provide information about their whereabouts.

25. Throughout the visit, the delegation received a wide range of consistent allegations of enforced disappearance perpetrated by Iraqi armed forces, including the Popular Mobilization Forces, while taking back control from Da'esh in Anbar, Diyala, Kirkuk, Ninewa and Salah al-Din Governorates and in parts of Baghdad and Babil Governorates. Family members of disappeared persons commonly alleged that the disappeared persons may have been held in various detention centres, including in the Jurf al-Sakr area in Babil Governorate, which are inaccessible to families and to national and international organizations.

The 2018–2020 protests

26. The next wave of alleged enforced disappearances occurred in the context of protests from 2018 to 2020, which people from all ethnic backgrounds took part in: initially in July 2018 in Basra, in response to water pollution, electricity shortages and the lack of basic services. From 1 October 2019 onwards, protests took place in Baghdad and other cities. At both times, excessive use of force by security agents was reported, including the use of live

³² Ceasefire Centre for Civilian Rights and Minority Rights Group International, "Civilian activists under threat in Iraq", December 2018, available at https://www.ceasefire.org/wp-content/uploads/2018/12/Civilian-Activists-under-Threat_EN_Dec18_FINAL2.pdf.

³³ Miriam Puttick, "The forever crime: ending enforced disappearance in Iraq" (Ceasefire Centre for Civilian Rights, December 2020), p. 11.

³⁴ UNAMI and OHCHR, "Enforced disappearances from Anbar Governorate 2015–2016: accountability for victims and the right to truth", August 2020.

³⁵ Miriam Puttick, "The forever crime: ending enforced disappearance in Iraq" (Ceasefire Centre for Civilian Rights, December 2020), p. 12.

ammunition to disperse demonstrators, resulting in deaths and injuries.³⁶ Abductions and arbitrary detentions, followed by the disappearance of protesters, occurred during both waves. Protesters were detained off the streets or when returning from protests, either by security forces or by armed groups commonly referred to as militias.³⁷

27. Testimonies received by the Committee indicate that while some detainees are still disappeared, most were given the opportunity to inform their families of their whereabouts, but only several days or weeks after their arrest. In the meantime, they often could not access a lawyer, and when their families asked the competent authorities about their location, they would not get any reply.³⁸ Such patterns turn most of the arrests referred to into secret detentions and enforced disappearances, in violation of articles 1, 2 and 17 of the Convention.³⁹

Ongoing patterns

28. In the aftermath of the 2018–2020 protests, the delegation received a large quantity of similar allegations referring to enforced disappearances that had occurred following an illegal arrest or detention, or a detention in an unknown place. Testimonies refer to direct involvement by State authorities of the central Government, or by authorities of the Kurdistan Regional Government such as the Peshmerga, the municipal police and the Asayish. Some victims interviewed reported that their relatives had been abducted while going about their daily lives at home, or on their way to work, school or shopping centres. Some were seen being picked up by groups of men wearing uniforms or insignia related to the local police, or to the security forces, and others by uniformed militias. According to the information provided to the Committee, it is common for armed individuals to shoot in the air to prevent people from approaching the scene, so that they do not film, or record licence plate numbers.

29. In this context, one common pattern reported to the Committee can be summarized by the following testimony received during the visit: “My son went to visit his cousin. I called him soon after he left because he had forgotten the bread I wanted him to offer to my nephew. He replied saying that he was at a checkpoint and that some men in uniform were checking him, and that he would call me immediately afterwards. He never did. And when I tried to call him back, he did not reply. He never arrived at my nephew’s place. Since then, I have been searching for him everywhere, in every prison, with all the authorities. But nothing, nothing, nothing.” Many similar allegations have been submitted to the Committee, which reveal the multidimensional violence of the situation faced by victims.

³⁶ UNAMI and OHCHR recorded the deaths of 487 protesters and the injury of 7,715 others. See “Human rights violations and abuses in the context of demonstrations in Iraq – October 2019 to April 2020”, available from https://reliefweb.int/attachments/52a1ecfc-4394-30c0-80fb-e0b87073f411/Demonstrations%20in%20Iraq_UNAMI%20OHCHR%20report_08%2027%202020.pdf, pp. 6 and 13. Figures of up to 800 protesters killed and more than 700 disappeared were reported to the Committee: see Geneva International Centre for Justice, “Updated information to the alternative report submitted in March 2020 to the Committee on Enforced Disappearances in relation to the examination of the additional information submitted by the Republic of Iraq” (nineteenth session, September 2020), p. 3.

³⁷ Between 1 October 2019 and 21 March 2020, UNAMI and OHCHR received 154 allegations of disappeared protesters and human rights activists who were presumed to have been abducted or detained. Of these allegations, UNAMI and OHCHR verified 99 cases involving 123 alleged disappeared persons. Of these cases, UNAMI and OHCHR were able to confirm the whereabouts of 103 persons, while 20 remained disappeared or their status was unknown at the time of the publication of the report. Of the 103 persons located, at least 32 persons had been abducted in circumstances indicating that the perpetrators may be armed actors commonly referred to as militias; 34 persons had been arrested and detained by security forces and did not or could not contact their families during their detention; and 37 persons either could not be contacted or declined to share details with UNAMI and OHCHR about their cases, mainly due to security concerns, including the risk of reprisal; see “Human rights violations and abuses in the context of demonstrations in Iraq – October 2019 to April 2020”, pp. 35–37. See also Miriam Puttick, “The forever crime: ending enforced disappearance in Iraq” (Ceasefire Centre for Civilian Rights, December 2020), p. 12.

³⁸ UNAMI and OHCHR, “Human rights violations and abuses in the context of demonstrations in Iraq – October 2019 to April 2020”.

³⁹ See *Yrusta v. Argentina* (CED/C/10/D/1/2013).

30. Other patterns of disappearance and enforced disappearance reported to the Committee in different governorates correspond to acts committed by non-State actors, sometimes with the collusion of State agents. The first of these patterns refers to alleged enforced disappearance in a context of trafficking of persons, mainly for the purposes of drug trafficking, sexual exploitation and forced labour. Actors such as the Popular Mobilization Forces and tribes are reported to engage in these acts, sometimes with the authorization, support or acquiescence of State agents. Women, children and migrants are particularly affected. Victims disappear into the hands of trafficking networks, with no possibility of contacting their families or relatives. The extremely limited action taken by the competent authorities hardly ever allows for them to be located, and calls for State responsibility under article 2 or 3 of the Convention.

31. Victims also referred to the alleged enforced disappearance of children, especially those of Yazidi origin, who were born following sexual exploitation of their mother in Da'esh camps. The delegation was informed about cases where, after returning to Iraq, mothers had had to leave their children in orphanages, with the intention of getting them back as soon as possible. However, when they returned to the orphanage, the mothers were told that their children had been "given" to another family,⁴⁰ allegedly with the direct involvement of State agents. No one provides the mothers with any reply when they ask about their children's whereabouts. Such cases are facilitated by the fact that, according to available information, hundreds or thousands of children born under Da'esh rule or to foreign fathers were not registered at birth and lack civil documentation. Although there is a legal framework in place to allow children born of sexual violence to obtain identity documents, various testimonies received by the Committee reveal that, in practice, obtaining such documents is particularly difficult, especially as it "requires women to publicly expose what they have survived – experiences that their families, culture, tribe and religion consider to be deeply shameful".⁴¹

32. In parallel, hundreds of families are still searching for their loved ones, suspecting that they are in camps in Türkiye, the Syrian Arab Republic or the Islamic Republic of Iran, where they have no possibility of contacting the outside world. Such a hypothesis is usually built around information provided by returnees. This includes children: boys who disappeared after being coerced or manipulated into supporting armed groups or had to do so to ensure their own survival, and girls taken away from their families to be forced into marriage and sexual exploitation. In all these cases, the responsibility is on Iraq and on neighbouring countries to search for the disappeared persons, to investigate their alleged disappearance or enforced disappearance, and to provide reparation to the victims.

33. Overall, the Committee notes that Iraq has been confronted in its recent history with the practice of enforced disappearance and is fully aware of the numerous and serious challenges faced by the State party to address this situation. In this context and in view of the information gathered throughout the visit, the Committee reiterates its deep concern that the practice of enforced disappearance has been widespread in much of the territory of the State party over different periods, and that impunity and revictimization prevail.⁴² The Committee calls upon the State party to address this reality in all its dimensions and diversity, in full respect for the rights of the victims.

34. The dimension, scope and diversity of the patterns faced call for urgent and concerted intervention by the State party, but also by neighbouring countries and the by international community at large. The Committee reiterates its unwavering commitment to supporting any processes put in place to prevent and eradicate disappearances, including enforced disappearances, in Iraq.

⁴⁰ During its meetings with civil society organizations, the Committee received information that these children are usually sold.

⁴¹ United Nations in Iraq, "United Nations calls for the protection of children born of sexual violence in conflict", press release, 27 June 2018, available at <https://iraq.un.org/en/169606-united-nations-calls-protection-children-born-sexual-violence-conflict>.

⁴² CED/C/IRQ/CO/1, para. 6.

B. Actions taken by the State party

35. The accumulation of these five waves of disappearances, including enforced disappearances and other grave human rights violations suffered by all the Iraqi people since 1968, affects the country as a whole. Many actors have made efforts and tried to promote truth, justice and reparation. Many legal initiatives have been promoted, and numerous institutions have been created to respond to the reality. The Committee is fully aware of the huge challenge that the overall situation of disappearances in Iraq represents for the State party and duly considers it throughout the present report. The Committee also wishes to emphasize that the main objective of its visit and of the present report is to provide support, in a constructive way, with recommendations that are aimed at allowing the State party and Iraqi society at large to progress towards the eradication and prevention of enforced disappearances for all.

36. With this perspective in mind and without the pretension of exhaustiveness, the Committee wishes to underline some positive steps taken by State authorities. Firstly, the Committee once again welcomes the State's openness to international scrutiny. This is key to the success of any initiative to eradicate and prevent enforced disappearance, in so far as it is a precondition for joint efforts to this end.

37. The Committee also welcomes the formation of the interministerial committee led by the Human Rights Directorate of the Ministry of Justice to gather information relating to disappeared persons, particularly those who have been reported through the urgent action procedure of the Committee, and to the adoption of the Yazidi Survivors' Law and the establishment of the Yazidi Survivors' Directorate.

38. As mentioned in its concluding observations and its previous interaction with the State party, the Committee notes the Government's efforts to address allegations of enforced disappearance by establishing two fact-finding committees (in 2016 and 2018) and looks forward to having access to the reports from their respective investigations that have still not been made public.

39. The Committee also welcomes the initiatives of the State party to train State agents on enforced disappearance and related issues, such as through the Human Rights Guide produced by the Ministry of Defence, which includes information on preventing torture and enforced disappearance.

40. While noting that the national human rights plan 2021–2025 would benefit from the inclusion of additional elements related to the Convention for the Protection of All Persons from Enforced Disappearance,⁴³ the Committee considers the adoption of this plan as a positive step to identify priorities, including to combat enforced disappearances. Likewise, the Committee welcomes the launch of the Kurdistan regional plan for human rights 2021–2025 and the project for a 2022–2026 action plan on the right to know the truth.

41. Finally, as already mentioned in its concluding observations,⁴⁴ the Committee welcomes the steps taken to draft and discuss the Bill on the Protection of Persons from Enforced Disappearance, and the various draft laws relating to the issue of enforced disappearance such as the “draft law on the national entity/body for the missing/disappeared” and the draft law on the right to know the truth.

42. These actions are ongoing projects, the results of which cannot be assessed yet. Consequently, the Committee recommends that the State party pursue its efforts on all these initiatives, to ensure their full compliance with the Convention and other

⁴³ In the next phases of the process related to the implementation and review of existing human rights action plans, the Committee invites the State party to include or specify references to the International Convention for the Protection of All Persons from Enforced Disappearance under additional entries (e.g. branch 2: the Iraqi Penal Code; branch 3: the Criminal Procedure Code; branch 7: gender-based violence and survivors of Da'esh crimes; branch 10: international crimes; branch 18: right to asylum (art. 16); branch 19: right to compensation/reparation (art. 24); branch 21: rights of the child (art. 25); branch 22: the administration of prisons (it will be important to include issues related to articles 17 to 21 of the Convention in the objectives)).

⁴⁴ CED/C/IRQ/OAI/1, para. 2.

international human rights and humanitarian law standards and their effective implementation. The present report contains recommendations related to some of these actions, and the Committee invites the State party and all actors involved to take them into account.

43. The cooperation between State authorities, international human rights mechanisms and other international actors must be maintained and further developed, with trust and efficiency, and in full compliance with the Convention and other international human rights instruments.

44. The Committee recommends that the State party request international bodies and the international community to set up cooperation and coordination mechanisms for the projects undertaken to address disappearances. It is urgent that these projects be carried out in a more concerted manner to avoid overlapping and to bridge existing protection gaps.

45. Bearing in mind the continuous nature of enforced disappearance,⁴⁵ the Committee also recommends that the State party implement its current obligations under the Convention with regard to all disappearances that have taken place in the country, including those that occurred between 1968 and 2003.⁴⁶

C. Current legal and institutional frameworks

46. The lack of clarity about the scope and extent of enforced disappearances, and the complexity of the system, are at the core of the problems faced by the State party in addressing it effectively and efficiently. These create further doubts, which fuel suspicion and mistrust in State institutions.

47. The national legal framework does not provide for specific procedures for searching for disappeared persons and investigating alleged enforced disappearances. Rather, laws, policies and practices concerning disappeared persons categorize such persons excessively, according to group characteristics or the presumed circumstances of their disappearance, and these laws, policies and practices often lack consistency. Numerous government entities, such as the police, personal status courts, the Ministry of Health, the Martyrs' Foundation and the Iraqi High Commission for Human Rights, deal with the issue, each with a specific mandate. The accumulation of regulations and institutions has resulted in fragmented, overlapping and confusing legal and institutional frameworks.

III. Establish the basis for addressing enforced disappearance: an urgent priority

48. In view of the above, the Committee considers it to be of utmost priority that the State party take immediate measures to establish the basis for addressing enforced disappearance. This entails: (a) clarifying the notion of enforced disappearance, for all actors involved; (b)

⁴⁵ Working Group on Enforced or Involuntary Disappearances, general comment on enforced disappearance as a continuous crime, available at <http://www2.ohchr.org/english/issues/disappear/docs/GC-EDCC.pdf>; A/69/56, annex V, paras. 3–4; European Court of Human Rights, *Varnava and others v. Turkey* (applications No. 16064/90, No. 16065/90, No. 16066/90, No. 16068/90, No. 16069/90, No. 16070/90, No. 16071/90, No. 16072/90 and No. 16073/90), judgment of 18 September 2009, paras. 147–149; and *Cyprus v. Turkey* (application No. 25781/94), judgment of 10 May 2001, paras. 136, 150 and 158; and Inter-American Court of Human Rights, *Radilla Pacheco v. Mexico*, judgment of 23 November 2009, Series C No. 209, paras. 140 ff; *Barrios Altos v. Peru*, judgment of 14 March 2001, paras. 41 ff; *Gómez Palomino v. Peru*, judgment of 22 November 2005, paras. 96 ff; *Blanco-Romero et al. v. Bolivarian Republic of Venezuela*, judgment of 28 November 2005, paras. 105 ff; *Heliodoro Portugal v. Panama*, judgment of 12 August 2008, paras. 179 ff; and *Gelman v. Uruguay*, judgment of 24 February 2011.

⁴⁶ Statement by the Committee on Enforced Disappearances on the *ratione temporis* element in the review of reports submitted by States parties under the International Convention for the Protection of All Persons from Enforced Disappearance, para. 3.

reviewing the national legal framework and criminalizing enforced disappearance as an autonomous offence; (c) clarifying and strengthening the institutional framework and guaranteeing systematic and effective interinstitutional coordination; and (d) creating a consolidated and reliable nationwide register of disappearances. These requirements constitute preconditions to the establishment of an effective strategy to prevent and eradicate enforced disappearances in Iraq.⁴⁷

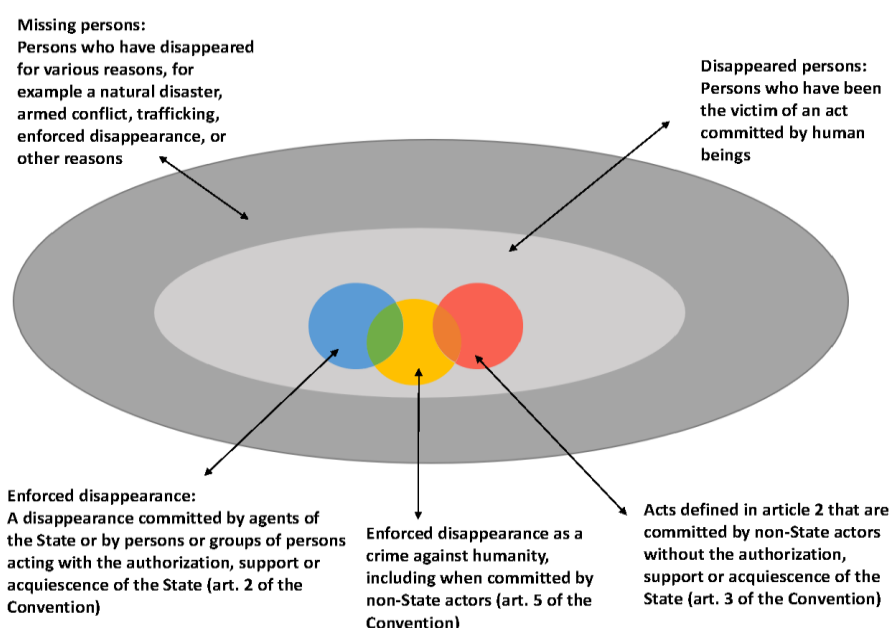
A. Clarify the notion of enforced disappearance

49. Throughout the visit, the discussions with national authorities demonstrated a lack of clarity as to the notion of enforced disappearance. Confusion also exists within the general population, and a wide range of terms – such as abducted, disappeared, missing and kidnapped – are often used interchangeably.

50. Indeed, the Committee notes that, when requested to provide specific figures about cases of enforced disappearance, the authorities of the State party met throughout the visit made repeated reference to the 555 urgent actions registered at the time under article 30 of the Convention. These cases cannot be considered as a comprehensive reflection of the number of alleged enforced disappearances in Iraq; the Committee recalls that the Working Group on Enforced or Involuntary Disappearances transmitted a total of 16,575 cases to the State party from 1980 to 2013. The Committee also wishes to underscore the hundreds of allegations of enforced disappearance received in different governorates during the visit.

51. The Committee further notes that most of the delegation’s interlocutors used the term “missing”. While enforced disappearance is indeed included in the notion of “missing”, the latter covers situations ranging from cases of disappearance caused by natural disasters to cases of disappearance amounting to crimes against humanity. The term “disappearance” refers exclusively to acts committed by human beings, and includes three subcategories: (a) enforced disappearance, committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State; (b) acts defined in article 2 of the Convention that are committed by non-State actors without the authorization, support or acquiescence of the State; and (c) enforced disappearance as a crime against humanity, including when committed by non-State actors.

“Missing persons”, “disappearance” and “enforced disappearance”: clarification of the notions



⁴⁷ See CED/C/IRQ/VR/1 (Recommendations) – the second part of the present report.

52. The Committee recalls that under article 2 of the Convention, States parties bear responsibility for acts of enforced disappearance committed by public officials, regardless of the circumstances in which they occur. Under the same article, States parties also bear responsibility for acts of enforced disappearance committed by persons or groups of persons, such as criminal organizations, acting with the authorization, support or acquiescence of the State. Such attribution can occur in any factual context, including situations of peace, or of national or international armed conflict. “Authorization” in that context means that the State, through its agents, has either orally or in writing given permission to persons or groups of persons to commit a disappearance. “Support” means that the State has provided some assistance to persons or groups of persons who have committed an enforced disappearance, inter alia through the sharing of information and/or the provision of means such as infrastructure, funding, weapons, training or logistics. For the purpose of attribution in this context, support does not have to be provided with the specific aim of committing an enforced disappearance. “Acquiescence” means that the State knew, had reasons to know, or ought to have known of the commission or of the real and imminent risk of commission of an enforced disappearance by persons or groups of persons, but: (a) has either accepted, tolerated, or given consent, even implicitly, to this situation; (b) has deliberately, and in full knowledge by action and omission, failed to take measures to prevent the crime and to investigate and punish the perpetrators; (c) has acted in connivance with the perpetrators, or with total disregard for the situation of the potential victims, facilitating the actions of the non-State actors who commit the act; or (d) has created the conditions that allowed their commission. In particular, there is acquiescence within the meaning of article 2 when there is a known pattern of disappearances of persons and the State has failed to take the measures necessary to prevent further disappearances, to investigate and to bring the perpetrators to justice.

53. This does not mean that States parties do not bear responsibility in connection with disappearances committed by persons or groups of persons acting without the authorization, support or acquiescence of the State. Even in these cases, States parties bear responsibility if they fail to investigate the disappearances and to bring those responsible to justice. They also bear responsibility if they fail to search for and locate disappeared persons, and in the event of death, if the bodies are not returned to the families and relatives in a dignified manner, and, in general, if they fail to fulfil their obligations towards the victims, including children.⁴⁸ In addition, the Committee recalls that under international law, States have strict due diligence obligations when they have knowledge of a disappearance, or know that there is a real and imminent risk that a disappearance will be perpetrated by a non-State actor. These due diligence obligations are particularly strict where women or girls are involved, due to the link that the disappearance may have with acts of, inter alia, sexual violence, femicide and trafficking in women.

54. The State party must urgently ensure a clear understanding and use of the concepts of “missing”, “disappearance” and “enforced disappearance” to identify the scope of each of the categories and to clarify the different forms of responsibility that the State party bears. All stakeholders must take on board the distinction between these notions in order to ensure use of the correct term, and to allow identification of the corresponding responsibilities of the State party and other actors, and the elaboration and implementation of appropriate and efficient strategies to prevent and eradicate enforced disappearances.

B. Revise the legal framework and criminalize enforced disappearance as an autonomous offence

55. As of today, various provisions from different laws address the issue of disappeared persons in Iraq. This complex legal framework includes more than 30 pieces of legislation ranging from the Constitution to laws and instructions – such as the Penal Code (Law No. 111 of 1969), as amended in 2010, which criminalizes unlawful seizure, kidnapping and detention; the Criminal Procedure Code (Law No. 23 of 1971); the Mass Graves Protection Law (Law No. 5 of 2005), as amended in 2015 into the Mass Graves Affairs Act (Act No. 13

⁴⁸ CED/C/MEX/VR/1 (Findings), para. 41.

of 2015); the Forensic Medicine Act (Act No. 37 of 2013); the Birth and Death Registration Act (Act No. 148 of 1971); the Martyrs' Foundation Law (Law No. 3 of 2006), as amended in 2015; the Law on the Ministry of Martyrs and Anfal Affairs of the Kurdistan Region of Iraq (Law No. 8 of 2006); the Law on Missing Persons from the Genocide Campaign against Iraqi Kurds (Law No. 3 of 1999 of the Kurdistan Region of Iraq); the Law on the Rights and Privileges of Sole Survivors of the Anfal Campaign (Law No. 14 of 2015); and the Law on Yazidi Female Survivors, of 2021. These laws and others cover more than 70 years of legislative developments⁴⁹ and create a highly scattered and fragmented system with overlapping mandates and procedures. None of these laws or instructions provide a definition of enforced disappearance.

56. As highlighted by the Committee in its concluding observations of 2015 and 2020 and in its follow-up report in 2022, the absence of an explicit definition of enforced disappearance as an autonomous crime in domestic legislation is of great concern. This normative silence fuels the confusion between the notions, thereby preventing clear identification of the scope of the crime, and of the responsibility of the State. The absence of clarity in this regard severely limits the possibility of defining efficient plans of action to address enforced disappearance. Whatever the modalities and the objectives of the actions that are developed, to work on a crime that does not exist in the national legal framework is indeed illusory.

57. The Committee is fully aware of the various attempts to introduce a draft law on enforced disappearance in Iraq. In 2017, the Human Rights Committee of the Parliament of Iraq presented a draft law, which was submitted for a first reading in Parliament. In 2018, the Ministry of Justice presented a separate draft law, which was reviewed by the State Council and forwarded to the Council of Ministers' Legal Department for further comments. In parallel, a bill on the "missing" and a project to reform the Criminal Code are under discussion.

58. During the visit, the delegation's discussions with civil society actors and State institutions that should be consulted on the amendments made to the bill revealed a lack of clarity as to the version to be discussed. As of today, the legislative strategy seems to encourage a fragmented approach instead of promoting an overall and interconnected analysis of existing projects.

59. To set up the basis of a system to efficiently address disappearances, including enforced disappearances, the State party must revise and simplify its legal framework related to disappearances. To this end, it should avoid adopting ad hoc pieces of legislation to address specific cases, but should create a single legal framework to address all cases of disappearance, which would clarify the different notions, mandates and procedures.

60. In that connection and without further delay, the State party must determine the way it wishes to proceed to ensure the criminalization of enforced disappearance as an autonomous offence in its national legislation, in full compliance with the Convention.⁵⁰ This process constitutes an obligation of the State party under the Convention and is a precondition for the effectiveness and efficiency of any future strategies and policies related to enforced disappearance.

61. Whatever the strategy selected (a specific law on enforced disappearance, a law on the "missing", the inclusion of an autonomous crime of enforced disappearance in the Criminal Code, or a combination of parts of the above), the State party must ensure a clear and systematic distinction between the notions of "missing", disappearance and enforced disappearance, in compliance with the Convention (see para. 51 above).

62. The State party must also ensure that the non-retroactivity principle does not stand in the way of prosecuting enforced disappearances. The future legal framework should include an article that asserts the continuing nature of the crime of enforced

⁴⁹ International Commission on Missing Persons, "Legal framework relative to the issue of missing persons in Iraq", March 2021, para. 17.

⁵⁰ CED/C/IRQ/OAI/1, paras. 6, 7, 9 (b), 10, 11 and 15.

disappearance and specifies that the offence ends only when the location of the victim has been determined.

C. Clarify and strengthen the institutional framework and ensure systematic and effective coordination

63. The national legal framework does not provide for specific procedures for searching for disappeared persons and investigating alleged enforced disappearances. Until its dissolution in 2015, the Ministry of Human Rights had the main responsibility regarding disappearances. From then, the Martyrs' Foundation was given primary responsibility for mass graves, while other competencies were passed to the Ministry of Justice and to the High Commission for Human Rights. In the Kurdistan Region, the Ministry of Martyrs and Anfal Affairs is responsible for mass graves and supporting victims' families. In 2007, the Law on the Rights and Privileges of the Families of Martyrs and Anfal Victims was passed, defining the benefits and entitlements of surviving family members.

64. Currently, more than 17 institutions or State authorities have responsibilities related to disappearances. These include:⁵¹ the Martyrs' Foundation, Mass Graves Directorate, Government of Iraq; the Ministry of Health in federal Iraq, through its Medico-Legal Directorate in Baghdad and departments in provinces; the Ministry of Martyrs and Anfal Affairs, Kurdistan Regional Government; the Commission for Investigation and Gathering Evidence (CIGE); the Iraqi High Commission for Human Rights; the Ministry of Justice, which has (i) a Human Rights Directorate that is in charge of ensuring implementation by Iraq of its obligations under international law, including the Convention, (ii) a Directorate of Corrections, which oversees correctional facilities, (iii) a Minors Care Directorate, which is involved in the management of assets and property of disappeared persons, and (iv) a Missing Persons Department, "which handles missing persons requests for those in detention facilities and those reported as missing through the High Commission for Human Rights"; the Ministry of Interior and its DNA laboratory; the Ministry of Defence; the Ministry of Labour and Social Affairs, and the Directorate on Yazidi Female Survivors' Affairs which comes under the Ministry; the provincial authorities; and the High Judicial Council and its prosecution and court structures for investigations and prosecutions, if any.

65. Depending on the circumstances of the alleged enforced disappearance or disappearance in question, the following jurisdictions can intervene: the personal status courts; the investigative and trial courts; the Central Criminal Court of Iraq; and representatives of the national security services, reporting directly to the Prime Minister.

66. On top of the prevailing confusion about the notion of enforced disappearance and the absence of specific institutional structures and strategies to deal with cases of enforced disappearance, the interaction with State institutions throughout the visit revealed a severe lack of interinstitutional coordination and interaction. Although some institutions work together, many carry out their functions in parallel, with no coordination mechanisms in place. This situation is fuelled by a literal interpretation of institutional mandates, which promotes work in silos and goes against a holistic approach to the search and investigation processes. For example, the preamble of the Mass Graves Affairs Act refers to the submission to the judiciary of criminal evidence collected from mass graves to facilitate the process of holding perpetrators responsible for crimes of genocide and of illegal burial, and other crimes committed against victims. However, evidence collected from mass graves has rarely been used in criminal investigations and prosecutions of perpetrators. Another example can be found regarding forensic institutions: the Medico-Legal Directorate in Baghdad and the medico-legal departments in the provinces are in charge of identifying mortal remains, including through DNA testing. When asked about the uses that the investigative authorities put the information to, agents explained that their work was to identify the remains and return them to their families and that it was not their responsibility to support the subsequent use of that information.

⁵¹ International Commission on Missing Persons, "Legal framework relative to the issue of missing persons in Iraq", March 2021, pp. 6 and 7.

67. Practical factors also limit interinstitutional coordination and cooperation. For example, agents of various State authorities indicated that their interaction with other institutions was affected by the lack of digital infrastructure: all the requests for information and the replies thereto were transmitted by means of letters which could take weeks to reach their destinations and sometimes got lost.

68. The multiplicity of institutions and their lack of cooperation and coordination cause a high level of confusion and fatigue for victims. On average, they must address their case to a minimum of seven institutions to initiate the basic procedures, sometimes many more. For each of these institutions, the victims must fill out the information in a different format and provide specific documentation, turning the reporting process into an administrative hurdle. These requirements often discourage the registration of cases with competent authorities and the consequent triggering of an investigation, and a number of victims testified about the additional suffering caused by the obligation to repeat their story “over and over again”. As the mother of three disappeared men mentioned: “Every time I explain the disappearance of my sons to the authorities, I feel very bad. I shake, I cry and I cannot sleep anymore. I have lost all hope. And now, I am very sick. Papers, papers, and nothing else happens. We have no support.”

69. Multiple international organizations, agencies, missions and mechanisms also intervene on issues related to disappearances, with specific mandates: the International Committee of the Red Cross; the Investigative Team to support domestic efforts to hold Da’esh accountable for acts that may amount to war crimes, crimes against humanity and genocide committed in Iraq, established by Security Council resolution 2379 (2017); UNAMI and the UNAMI Human Rights Office; the International Organization for Migration; the United Nations Children’s Fund (UNICEF); the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women); and the International Commission on Missing Persons. All of them have key roles in supporting State institutions and victims.

70. However, the Committee notes that confusion prevails as to the role, functions and interaction of international actors in relation to disappearances. The brother of a disappeared person stated: “Often, it seems that none of them talk to each other, and the international organizations do not want to work together. When I told about our case, it seemed that they did not want me to ask others for help – it was their property.”⁵² Others indicated that they got confused by the contradictory information they received, for example regarding the dates of some exhumations to be held, between national and international institutions.

71. Overall, the lack of inter-institutional coordination and inter-agency cooperation affects the whole system: it duplicates some of the interventions, leaves some critical steps of the procedure unattended to, and hampers the collection of data and evidence related to disappearances. The failure to take a multidisciplinary and coordinated approach to cases has an adverse impact on the outcomes of searches and investigations, as well as on the pool of knowledge about disappearances and the efforts to address and prevent them.

72. The Committee notes the ongoing project to establish a “national entity for the missing”, which would be better called a “nationwide disappeared persons system”. It also welcomes the establishment of an executive programme plan for its implementation, in 2022. However, the Committee regrets that this project is still in its preliminary phase, and considers that many points of the draft law should be reviewed in order to ensure its full compliance with the Convention.

73. The Committee considers it a priority to clarify the institutional framework in charge of cases of disappearance in Iraq. To this end, the State party should concretize its project to establish a unique “Nationwide Disappeared Persons System”. This system should be in charge of all cases of disappearance, in accordance with the State party’s competence as set forth in article 9 of the Convention, regardless of the ethnic, religious or national background of the victims, the national origin of the alleged perpetrators, or the time, location and circumstances of the disappearances. The State party should

⁵² Testimony of one of the victims during meetings with civil society actors.

establish specific strategies adapted to the circumstances of the cases, but within a common framework.

74. The State party should ensure that all the institutions that currently have some responsibility in relation to cases of disappearance and the future “Nationwide Disappeared Persons System” have the human and financial resources they need to carry out their work at the federal, regional and local levels. To this end, each institution involved should draw up a detailed periodic plan to identify the resources it needs to fulfil its duties efficiently. At the same time, the federal authorities, the regions and the governorates must allocate budgets that respond to the planning and priorities of the national and local entities.

75. Likewise, the State party should prioritize the training and hiring of specialized personnel, and the establishment of appropriate selection and vetting procedures for staff.

76. In addition, the search for disappeared persons and the criminal investigation of the persons responsible for their disappearance must be conceived of as mutually reinforcing.⁵³ For this to be possible, the State party must urgently establish effective mechanisms of inter-institutional and inter-agency coordination and cooperation at the federal and local levels.

77. In that respect, all authorities involved in the processes of search and investigation must work together for the immediate establishment of a consolidated nationwide database of disappeared persons, including of persons who have been subjected to enforced disappearance (see paras. 82–89 below). They must also set up a unified mechanism for reporting cases, with a common format that meets their respective needs.

78. The State party must ensure interaction and coordination of all national and international organizations, agencies, missions and mechanisms that intervene on issues related to disappearance. It should establish a forum for inter-institutional coordination that lays the groundwork for searches for, the locating of and the identification of disappeared persons, for the prevention and investigation of disappearances, for the punishment of perpetrators, and for the reparation provided to victims.

79. The State party must also promote the interaction and coordination of all national institutions that intervene on issues related to disappearance. To this end, it should: (a) establish intra-institutional and inter-institutional communication mechanisms and channels that allow information to be exchanged in a systematic, instantaneous and flexible manner, depending on the requirements of the case; (b) ensure that information is made available and managed effectively; and (c) ensure the involvement of all institutions with competence to search for, locate and identify disappeared persons, to prevent and investigate disappearances, to punish perpetrators, and to ensure reparation for victims.

80. Simultaneously, the State party should develop and implement methodologies and indicators to periodically assess the actual application of coordination mechanisms and the outcomes of searches for persons and investigations into disappearances, enabling the correction of any shortcomings.

81. The Committee recommends that the State party call upon international bodies and the international community in order to establish efficient interaction mechanisms to promote coordination between the projects undertaken to address disappearances. Such coordination should be urgently promoted in order to avoid duplication and contradictions, and to bridge protection gaps.

⁵³ CED/C/7, principle 13.

D. Set up a consolidated and reliable nationwide register of disappearances

82. The complexity of the current legal and institutional framework related to disappearance also has a direct impact on the capacity of the State party to set up an efficient and effective system of registration of disappearance cases.

83. Registers or databases exist in all the institutions visited. Nonetheless, these do not always include specific entries related to enforced disappearance or to existing crimes that could be considered as akin to enforced disappearance. In addition, these registers are not interconnected: as far as the delegation was able to see during the visit, each institution has its own database, and sometimes, departments in the same institution each have their own register, with different formats and contents. The systems in place do not allow access to information between institutions, or even between different departments within the same institution.

84. The delegation was also surprised to see that the official reports provided by the institutions visited did not contain data on enforced disappearances, while, off the record, precise data was provided on the registration of such cases, by the same institutions. Such contradictions affect the reliability of the information provided.

85. The urgency to set up a consolidated nationwide database to register all cases of disappearance, including enforced disappearance, was signalled by most of the delegation's interlocutors during the visit. Various projects have been initiated to this end,⁵⁴ but as of today, none has been fully finalized. To date, no reliable data are available on the number of alleged cases of enforced disappearance in Iraq.

86. The non-existence of reliable data must be urgently addressed, as it prevents the defining of efficient strategies to promote searches for disappeared persons and to investigate their disappearance. The Committee therefore reiterates its recommendation that the State party establish a consolidated nationwide register of all cases of disappearance in Iraq since 1968. To this end, the information from the different sources must be compiled and systematized so that it can be incorporated into the register. Furthermore, the register should be systematically and promptly updated so that the authorities can generate reliable statistics.

87. The nationwide register should be accessible to all persons who have a legitimate interest, ensuring the protection of personal information and sensitive data. With a view to ensuring that all trends affecting specific parts of the population can be identified and taken into account as substantive elements in the process of search and investigation, the Committee reiterates its position that the register should include at least the following:⁵⁵

- (a) **The total number and identity of all disappeared persons;**
- (b) **The sex, gender identity, sexual orientation, age, nationality and, if applicable, ethnic group or religious affiliation of the disappeared person;**
- (c) **The status of the search procedure and the investigation, including detailed information, where applicable, on exhumation and identification procedures and autopsy results;**
- (d) **The place, date and circumstances of the disappearance, including all elements relevant to determining whether the case is an enforced disappearance.**

88. Once the nationwide register has been set up, the authorities responsible for searches, investigations and prosecutions, and for providing assistance and reparation

⁵⁴ The most recent project that the Committee was informed of is the International Commission on Missing Persons project to create a central record of "missing"/disappeared persons.

⁵⁵ See, for example, [CED/C/GRC/CO/1](#), para. 11; [CED/C/NER/CO/1](#), para. 15; [CED/C/ARG/OAI/1](#), para. 14; [CED/C/CR/CO/1](#), para. 13; and [CED/C/ZMB/COAR/1](#), para. 10.

to victims, should make use of all the information and documentation collected to carry out the activities necessary for them to fulfil their duties.

89. The seriousness of disappearances and their diverse and intense impact on victims and Iraqi society as a whole require urgent establishment of the basis necessary to prevent and eradicate them. To this end, the Committee urges the State party to address all of the observations and recommendations contained in the two parts of its visit report,⁵⁶ including due diligence standards, a differentiated approach and a human rights-based approach as cross-cutting components.

⁵⁶ That is, in the present report (part 1), and in [CED/C/IRQ/VR/1 \(Recommendations\)](#) (part 2).