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**DYING TO BE FREE:
LGBT HUMAN RIGHTS VIOLATIONS IN IRAQ**

IN RESPONSE TO

**THE FIFTH PERIODIC REPORT OF
THE REPUBLIC OF IRAQ**

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List of Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
ICCPR	International Covenant on Civil and Political Rights
LGBT	Lesbian, Gay, Bisexual, and Transgender

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Introduction

This report addresses urgent areas of concern related to the status of human rights of lesbian, gay, bisexual and transgender (LGBT) people in Iraq and is intended to supplement information the Government of Iraq provided in its fifth periodic report to the Human Rights Committee (the Committee) for its review of Iraq during its 115th Session, to be held in October 2015. The Committee monitors governments' compliance with the International Covenant on Civil and Political Rights (ICCPR). The Iraqi Government's report to this Committee makes no mention of the rights of LGBT people, and instead voices support for its ongoing discrimination based on sexual orientation and gender identity. Violence and discrimination against LGBT individuals in Iraq continues to flourish, and victims are guaranteed virtually no protection or redress. The Government of Iraq has failed in its obligation under the ICCPR to take proper measures to give effect to the rights recognized therein, to ensure effective remedies in cases of violations, and to prevent systemic impunity.

Faced with the ever-present possibility of extreme violence, torture, and murder, being perceived as LGBT in Iraq places one in immediate danger. The state-sanctioned culture of anti-LGBT discrimination permeates Iraq's institutions and society. Perpetrators of egregious anti-LGBT human rights violations include victims' family members, militia fighters and religious militants from various groups, as well as government officials. Members of the security forces and police are, at best, non-responsive to human rights violations committed on the basis of sexual orientation or gender identity, and at worst, active participants in them. People in Iraq can count on virtually no protection or recourse for anti-LGBT violence and discrimination.

Iraqi community service providers and human rights activists, including victims of anti-LGBT discrimination and violence, take great risks to record human rights violations committed on the basis of sexual orientation and gender identity. The shared hope of these individuals and their international allies is that these stories will spur immediate action on the part of the Iraqi government to ensure greater safety and protections for Iraqi LGBT people. Even in times of conflict, the Iraqi government is obligated to adhere to the ICCPR, and there are basic steps it can take now to help protect LGBT people from egregious human rights violations. The first would be for it to acknowledge that LGBT people, like all people, have human rights that must be respected. The recent reformation of the Government's only official agency to deal with LGBT issues, the LGBT Committee, is a positive step in remedying inadequate Government efforts to protect LGBT rights. The Committee, which ceased to function after ISIS's June and July 2014 territorial gains, had done little to deal with the clear protection gap facing LGBT and gender-nonconforming Iraqis. However, its reestablishment signals a renewed Government commitment to live up to international human rights obligations.

Information on human rights violations in this report was gathered through field interviews and documentation of personal testimonies in late 2014 and early 2015 by local Iraqi women's organizations² and international non-governmental organizations. It is supplemented by reports from news agencies and human rights organizations. The primary international organization that served as the documenter of the human rights violations set forth in this report has chosen to remain anonymous for safety reasons. This report was drafted in collaboration with both local

² For safety and security reasons this organization has chosen not to be identified by name.

Iraqi activists, local Iraqi human rights organizations and their international allies, of whom all but two have chosen to have their names omitted for safety reasons. A set of specific recommendations for advancing the Iraqi Government's compliance with the ICCPR concludes this report.

Substantive violations

I. Article 6 (Right to Life) and Article 7 (Freedom from Cruel, Inhuman, or Degrading Treatment).

Article 6 of the ICCPR recognizes that “[e]very human being has the inherent right to life.”³ Article 7 states that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁴ The Iraqi government has an obligation to protect individuals from acts that violate these provisions of the ICCPR, whether committed by state actors or by private persons.⁵ It must indiscriminately address such violations by exercising due diligence to prevent, punish, investigate, and provide redress for such acts.⁶ According to Article 14 of the Iraqi Constitution, “Iraqis are equal before the law without discrimination based on gender, race, ... economic or social status.”⁷

A. Iraqi Government's Failure to Prevent, Investigate, Punish and Provide Redress for Violence and Discrimination Against LGBT Persons.

According to human rights testimonials and interviews with Iraqi community-based LGBT rights advocates, the rights to life and to freedom from torture or cruel, inhuman, and degrading treatment are regularly violated in Iraq with impunity. People who are killed, injured or tortured on the basis of real or perceived sexual orientation or gender identity find no recourse in the institutions that should provide protection and support, such as state police and security forces, or medical facilities.⁸ Multiple sectors of society are implicated in these human rights violations, including civilians, militia members, religious leaders, police and security forces, government officials, healthcare workers and others.

Faced with continued armed conflict, the rise of militias, and the weakening of government institutions since 2003, LGBT people in Iraq are especially vulnerable to violence from these various actors.⁹ The risks for them are constant, and since 2003, Iraq has also experienced a number of organized, deadly campaigns targeting large numbers of people based on their real or perceived sexual orientation or gender identity. These flare-ups of violent persecution are instigated, inspired, carried out, or tolerated by state actors and militia. For example, in 2009, in Sadr City, a low-income area of Baghdad, dozens of men were killed under suspicion of being gay. Press suggested that a *fatwa* or other religious invectives by Moqtada al-Sadr or other clerics had spurred an organized, violent campaign, involving some militia elements as well as killings by

3 International Covenant on Civil and Political Rights, G.A. Res. 2200A, 999 U.N.T.S. 171, art. 6 (Dec. 16, 1966).

4 International Covenant on Civil and Political Rights, G.A. Res. 2200A, 999 U.N.T.S. 171, art. 7 (Dec. 16, 1966).

5 Human Rights Committee, General Comment 31: The Nature of the General Legal Obligation Imposed on State Parties to the Covenant, ¶8 (adopted on Mar. 29, 2004) U.N. Doc. CCPRC/21/Rev.1/Add1326.

6 Human Rights Committee, General Comment 31: The Nature of the General Legal Obligation Imposed on State Parties to the Covenant, ¶8 (adopted on Mar. 29, 2004) U.N. Doc. CCPRC/21/Rev.1/Add1326.

7 The Constitution of Iraq, Section II, *Rights and Liberties*, Article 14.

8 Doctors at hospitals in Iraq regularly deny LGBT people healthcare, or charge them double or triple the rate for treatment.

Three of the many hospitals that have engaged in extortion and denial of treatment based on real or perceived sexual orientation or gender identity include Al Yarmouk Hospital, Al Kindi Hospital, and Al Samir Hospital. Interview, Saturday, January 24, 2015 (on file with authors); Email with Iraqi service provider and advocate, May 24, 2015 (on file with authors).

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relatives of victims.¹⁰ In the weeks leading up to the spate of killings, local police said they had started cracking down on LGBT people, stating that they were cleaning up the streets to “get the beggars and homosexuals off them.”¹¹

In 2012, militia posted leaflets in the Sadr City neighborhood of Baghdad, listing names of young men identified as gay or “emo,” and calling for them to “change their ways” or risk death. According to a press release by the IGLHRC, Human Rights Watch, and Amnesty International, “[i]n English, ‘emo’ is short for ‘emotional,’ referring to self-identified teens and young adults who listen to alternative rock music, often dress in black, close-fitting clothes, and cut their hair in unconventional ways. People perceived to be gay, lesbian, transgender or effeminate are particularly vulnerable.”¹² According to media reports, on February 6, 2012, Colonel Mushtaq Taleb Muhammadawi, director of the community police of the Iraqi Interior Ministry, called for the eradication of emos, thus lending official support to the campaign of murder and intimidation.¹³ The UN Assistance Mission for Iraq (UNAMI) reported findings by NGOs and media outlets that Al Mahdi (Mahdi Army) and Asa’ib Ahl Al-Haq were responsible for “up to 56 persons described as ‘emos’ ... reportedly killed in different parts of Iraq, especially in Baghdad and Babil.” UNAMI was able to verify twelve of the killings.¹⁴ Al Mahdi Army has a long history of targeting LGBT individuals, including those who identify as Lesbians. For instance, in 2008, Al Madhi Army kidnapped an 18 year-old lesbian, in Baghdad.¹⁵ They took her to a place that was covered in blood.¹⁶ In that same place, there were some gay men and two other lesbians.¹⁷ Al Mahdi Army militants tortured them, burned the woman’s left thigh, and killed a gay man.¹⁸

On May 15, 2014, the Brigades of Wrath (Saraya al-Ghadhab), the military arm of Asa’ib Ahl al-Haq, (the League of the Righteous), posted a list on signs around Baghdad with the names and neighborhoods of 24 “wanted” persons; 23 accused of the “crime” of homosexual acts and one man accused of the “crime” of having long hair. Over the following two months, at least two militia attacks took place in Baghdad against groups of persons because of their real or perceived sexual conduct or sexuality, including the beheading of two young men, and the murder of at least 34 people in a brothel.¹⁹ In the recent fighting against the Islamic State, Iraqi government

¹⁰ Timothy Williams & Tareq Maher, “Iraq’s Newly Open Gays Face Scorn and Murder,” NEW YORK TIMES (April 7, 2009), <http://www.nytimes.com/2009/04/08/world/middleeast/08gay.html>; Nizar Latif, “Iraqi ‘executioner’ defends killing of gay men,” THE NATIONAL, (May 2, 2009), <http://www.thenational.ae/news/world/middle-east/iraqi-executioner-defends-killing-of-gay-men>.

¹¹ Timothy Williams & Tareq Maher, “Iraq’s Newly Open Gays Face Scorn and Murder,” NEW YORK TIMES (April 7, 2009), <http://www.nytimes.com/2009/04/08/world/middleeast/08gay.html>.

¹² “Iraq: Investigate ‘Emo’ Attacks,” 16 March 2012. Available online at: <http://www.iglhrc.org/cgi-bin/iowa/article/pressroom/pressrelease/1499.html>.

¹³ BBC Arabic, *Iraq: Security Sources Say “EMO” Followers Face Kidnapping or Murder*, (Mar. 2012), available at http://www.bbc.co.uk/arabic/middleeast/2012/03/120311_emo_iraq.shtml.

¹⁴ United Nations Assistance Mission for Iraq (UNAMI), *Report on Human Rights in Iraq, January to June 2012*, 15-16 (October, 2012), available at <http://www.refworld.org/publisher,UNAMI,,,54c1fe754,0.html>.

¹⁵ INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION.

¹⁶ ID.

¹⁷ ID.

¹⁸ ID.

¹⁹ INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION.

forces are coopting militias, including Asa'ib Ahl al Haq (League of the Righteous),²⁰ and evidence points to collusion between state forces and militia in revenge killings.²¹ This cooperation between state forces and conservative religious militia implicated in anti-LGBT killings does not bode well for efforts aimed at preventing human rights violations and holding perpetrators accountable.

The discrimination and targeting of the LGBT community in Iraq also reaches transgender persons.²² For example, a 27 year-old transgender person from Baghdad has been subjected to various forms of violence and threats of violence by the army, Government-affiliated militias, family members, and members of society.²³ The person also faces many difficulties trying to obtain government-issued identification documents that reflect her gender identity.²⁴ Therefore, the Government has not only failed to protect and provide basic services for transgender persons, but has actually taken part and participated in persecuting this particularly vulnerable segment of the society.

In addition to these organized episodes of anti-LGBT and anti-gender transgressing violence in Iraq, the torture and killing of people based on their real or perceived sexual orientation or gender identity occurs regularly and with impunity. The following examples, drawn from recent interviews, highlight some of the extreme forms of violence LGBT individuals endure and the lack of recourse available to them.

- ▲ Around August or September of 2012, a man of approximately 30 years of age, went to a hospital in Samarra in response to a call by mosques for people to give blood after fighting between Al-Qaeda and government forces wounded many in the city. Once an orphan, the man, according to community members, had done sex work and also had sex with other men. A group of religious extremists saw him in the hospital, and accosted him. They escalated their abuse, ultimately beating him to death with metal pipes while still in the hospital. The group then burned his body in the middle of the hospital's courtyard. Approximately 20-30 people were standing around the body at the time it was burning. Both the police and tribal leaders arrived. Police did not write a report, however, and the perpetrators went completely unpunished.²⁵

²⁰ David D. Kirkpatrick, "Shiite Militias Pose Challenge for U.S. in Iraq," New York Times, September 16, 2014, http://www.nytimes.com/2014/09/17/world/middleeast/shiite-militias-pose-challenge-for-usin-iraq.html?_r=0 (accessed September 23, 2014)

²¹ Amnesty International, "Iraq: Testimonies point to dozens of revenge killings of Sunni detainees," June 27, 2014, <http://www.amnesty.org/en/for-media/press-releases/iraq-testimonies-point-dozens-revengekillings-sunni-detainees-2014-06-27>. Human Rights Watch documented "the extrajudicial killings of hundreds of prisoners in June and July of this year by Iraqi army, police and special forces [and] a pattern of government-backed Shi'a militias kidnapping and killing Sunni men in Baghdad, Diyala and Babel provinces.... [T]he government has significantly increased its use of militias and sectarian volunteers in its fight against ISIS." Human Rights Watch, "Iraq: 22nd Special Session of the UN Human Rights Council," September 1, 2014, <http://www.hrw.org/news/2014/09/01/iraq-22nd-special-session-unhuman-rights-council>.

²² INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION.

²³ ID. AT 5 (2014).

²⁴ ID.

²⁵ Interview, Saturday, January 24, 2015 (on file with authors).

- ⤴ In 2012, a non-governmental organization rescued three men who were perceived to be homosexuals. One man, a university student in Tikrit, was almost beaten to death by an armed crowd of thirty people who had surrounded his house. Through brave and strategic maneuvering, a team from the NGO succeeded in moving the man to safety with no incidence of violence. The young man asked them to retrieve another of his friends that he believed was at risk, so before they left for the organization's office, they picked up this friend. A third man called and then arrived at the organization's office, fearing for his life because he too was made aware of killings of people with "emo" haircuts similar to his. All three, who had nearly identical hairstyles identified as "emo," were eventually smuggled out of central Iraq.²⁶ These men could not count on security forces to protect them from violence.
- ⤴ In early 2014, a young man in Baghdad had a sexually transmitted infection affecting his anus and needed urgent care. He searched for months for a hospital that would take care of him. Ultimately, however, he had to pay double for service. The doctors that he did see put tampons in his anus to prevent the bleeding. They refused to follow-up with him. It is common practice at hospitals in the area for medical professionals to deny healthcare to LGBT people, or to people perceived as such; or to force them to pay double or triple the regular cost for treatment.²⁷
- ⤴ In November 2013, Asa'ib Ahl Al Haq (League of the Righteous) militia members brutally attacked a gay man, insulting him, beating him, and then gluing his anus closed. The man required surgery at a hospital as a result. According to local human rights advocates, this form of torture is commonly used against those who are LGBT or gender non-conforming. Attackers have also reportedly put kerosene into the blood of people they perceive as gay or transgender causing an extremely painful death.²⁸ Last year, the Iraqi government has reportedly coopted militias, including Asa'ib Ahl Al Haq, to fight alongside state armed forces in the ongoing conflict.²⁹

Security forces not only fail to intervene to protect LGBT people from discrimination and violence, they also participate in abuses against LGBT individuals. After being beaten by his parents and kicked out of his home, a thirteen year-old gay boy was trafficked and sexually exploited for several years. When he managed to escape, he sought assistance from the security forces. Instead of helping him, the security forces physically and sexually abused him. They then drove him to a deserted area and left him, where he remained alone for 3 days.³⁰ In another instance, a gay man was told that he needed to sexually satisfy a checkpoint officer in Baghdad in order to pass.³¹

26 Interview, Saturday, January 24, 2015 (on file with authors).

27 Interview with three service provider organization representatives located in Iraq and the Kurdistan region, Thursday, January 22 2015 (on file with authors).

28 Interview, Thursday, January 22 2015 (on file with authors).

29 David D. Kirkpatrick, "Shiite Militias Pose Challenge for U.S. in Iraq," New York Times, September 16, 2014, <http://www.nytimes.com/2014/09/17/world/middleeast/shiite-militias-pose-challenge-for-us-in-iraq.html> (accessed September 23, 2014)

30 Interview, Thursday, January 22 2015 (on file with authors).

31 Interview, Thursday, January 22 2015 (on file with authors).

These are but a few examples of the many instances where LGBT people and people perceived to be LGBT in Iraq face violence, abuse and discrimination, with no recourse or access to justice. By failing to prevent, investigate, prosecute and provide redress for these forms of violence, Iraq has failed to meet its obligations under the ICCPR.

II. Article 2(1) and Article 26 (Non-discrimination and Equal Protection of the Law)

Articles 2(1) and 26 of the ICCPR obligate each State Party to eliminate discrimination against individuals within its territory and jurisdiction on the basis of sexual orientation or gender identity. Article 2(1) obligates State Parties to “respect and to ensure to all individuals ... the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”³² Article 2 imposes both positive and negative obligations, requiring that states parties “adopt legislative, judicial, administrative, educative and other appropriate measures” to enforce and protect these rights.³³ Article 26 recognizes that “[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law,” and that “[t]he law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”³⁴ In *Toonen v. Australia*, which held that criminalization of consensual same-sex sexual behaviors constituted a violation of privacy rights under the ICCPR, the Human Rights Committee also determined that sexual orientation is included in the word “sex” in articles 2(1) and 26.³⁵

This Committee has repeatedly called on governments to eliminate discrimination based on sexual orientation and gender identity.³⁶ For example, it recently expressed concern at Croatia’s “lack of effective investigation and prosecutions” into violence against LGBT people, in violation of Articles 2 and 26.³⁷ It called on the Government to “ensure that all reports of violence against LGBT persons are effectively investigated and that perpetrators of violence based on sexual grounds are prosecuted and sanctioned.”³⁸ To meet its non-discrimination and

32 International Covenant on Civil and Political Rights, G.A. Res. 2200A, 999 U.N.T.S. 171, art. 2(1) (Dec. 16, 1966).

33 U.N. Human Rights Comm. [ICCPR], General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, ¶ 7, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (May 26, 2004) [hereinafter General Comment No. 31].

34 International Covenant on Civil and Political Rights, G.A. Res. 2200A, 999 U.N.T.S. 171, art. 26 (Dec. 16, 1966).

35 *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 ¶¶ 8.9, 9 (1994).

³⁶ See, e.g., Human Rights Committee, Concluding Observations on the Seventh Periodic Report of the Russian Federation, U.N. Doc. CCPR/C/RUS/CO/7 ¶ 10 (2015); Human Rights Committee, Concluding Observations: Iran, ¶ 10, (2011); Human Rights Committee, Slovakia, CRC/C/SVK/CO/2, June 8, 2007, para. 28; Human Rights Committee, Concluding Observations: Namibia, U.N. Doc. CCPR/CO/81/NAM, July 30, 2004, ¶ 22; Human Rights Committee, Concluding Observations: Trinidad and Tobago, U.N. doc. CCPR/CO/70/TTO, November 3, 2000, ¶ 11; Human Rights Committee, Concluding Observations: Poland, “U, 66th Session, ¶ 23;

³⁷ Human Rights Committee, Concluding Observations on the Third Periodic Report of Croatia, U.N. Doc. CCPR/C/HRV/CO/3, ¶ 10 (30 April, 2015), available at tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/CRO/CCPR_C_HRV_CO_3_19974_E.doc.

³⁸ Human Rights Committee, Concluding Observations on the Third Periodic Report of Croatia, U.N. Doc. CCPR/C/HRV/CO/3, ¶ 10 (30 April, 2015), available at

equal protection obligations under the ICCPR, Iraq must protect, investigate, prosecute and punish human rights violations, including discrimination, no matter the sexual orientation or gender identity of the victim.

A. The Iraqi Government's Endorsement of Violence and Discrimination Against LGBT Persons.

The mere perception of being LGBT is extremely dangerous in Iraq and living openly as an LGBT person is nearly impossible. For victims of anti-LGBT discrimination, including violence, there is no viable recourse in the Iraqi State. State security forces not only fail to investigate acts of discrimination and violence against LGBT people; they stand by and allow murderous hate violence to occur, fully aware of what is happening. Furthermore, security forces and government officials themselves commit anti-LGBT discrimination and violence. The State's denial of access to justice for victims of these human rights violations encourages further discrimination and acts of violence, including those committed by health professionals and others who capitalize on LGBT peoples' vulnerable status.

To understand the extent of state-sanctioned anti-LGBT discrimination in Iraq, one can review the Government's report to this Committee. The Government fails to mention the pervasive violence and discrimination based on real or perceived sexual orientation and gender identity in Iraq. While there is no law that explicitly criminalizes same sex intimacy, it openly states in its Report that it deems homosexual acts unlawful, and that it denies LGBT activists the right to free expression and association. It impermissibly relies on religious beliefs to justify these forms of discrimination, stating, "[protest] activities by homosexuals are prohibited since their sexual practices, being contrary to the teachings of the Islamic sharia, constitute a punishable offence under Iraqi law."³⁹

Moreover, regarding the Iraqi government's measures to stop organized killings of LGBT persons, Ali Al-Dabagh, the Spokesperson for the former Iraqi Prime Minister Nouri Al-Maliki, stated in an interview with the BBC in September 2012 that "[...] we can't protect homosexuals, we are a country, we have a different habit and customs."⁴⁰ He asserted that, "[homosexuality] is not by nature, it's a behavior," and further added that, "the gays should respect the behavior and moral values of the others in order to be respected."⁴¹

Such remarks by a high-level government official, together with the examples in the prior section, serve to illustrate the State Party's discriminatory attitudes and practices, which encourage violence against people who are LGBT, or who are perceived to be so, at all levels of society. Through their unwillingness to investigate or pursue even the most open of perpetrators, Security Forces encourage anti-LGBT human rights violations including torture and killings.

tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/CRO/CCPR_C_HRV_CO_3_19974_E.doc.

³⁹ Human Rights Committee, Consideration of reports submitted by State parties under article 40 of the Covenant, Initial reports of States Parties, Iraq. CCPR/C/IRQ/5, 12 December, 2013.

⁴⁰ Natalia Antelava, *Gay Witch Hunt in Iraq*, BBC, September 12, 2012, retrieved from YouTube, minutes 17:33 - 18:50, available at <https://www.youtube.com/watch?v=1vvMCXI1Z14>

⁴¹ Id.

Furthermore, public Media in Iraq openly broadcasts propaganda against LGBT persons, inciting violence against them without inhibition. A prominent example is the Al-Sumaria TV, one of the largest and widely-viewed TV channels in Iraq, which has been propagating stereotypes and myths about LGBT persons in one of its popular programs titled “Al-Hawa Elak” meaning the “air is yours”. In February 2013, and another time in March 2015, the TV program dedicated an entire episode to discussing the LGBT community in Iraq, representing the issue as a sexual abnormality which could occur as a result of bad parenting, unemployment, and other social and medical reasons.⁴²

The host of the program also interviewed doctors, religious and other ‘experts’ during the two episodes, all of whom corroborated and emphasized the notion that LGBT persons are abnormal. Moreover, the program also broadcast phone calls, and displayed hostile messages on the bottom of the screen from viewers, who strongly condemned LGBT persons commenting, “It should be punished by the worst punishment, and that the government should make that happen.”⁴³

Such programs not only disseminate false information about LGBT persons, but also serve to fuel further hostility and violence towards them. In attestation to this effect, two gay viewers calling the program contended that TV shows such as this are amongst direct reasons for the killing campaigns against LGBT persons in Iraq.

In addition to these examples of hate violence, testimonies illustrate that the environment of impunity emboldens family members who feel “shamed” by the real or perceived LGBT status of their relatives to perform public executions.

For example, in June of 2012, in the Northern city of Samarra, the burning remains of two young men were left in the street of a busy public intersection for over two hours.⁴⁴ Countless people passing through the intersection saw the bodies and not a single person intervened. The family members of the men, who had killed them both, were still standing in the street holding pistols in their hands as they watched the men’s bodies burn. The Security Forces of the Ministry of the Interior, who were informed of the incident before hand,⁴⁵ witnessed the shooting and burning and were standing near the families who were holding the pistols. There were no repercussions for the killings and no media coverage of the incident. Security Forces conducted no investigation and generated no report, despite being present at the scene. Human rights advocates who stopped at the intersection noted that the family appeared proud of their deed, openly talking about how they did it, and noting that such acts restored honor to their family. The local human rights monitor noted that as with other “honor” killings with victims perceived to be gay, the family members themselves were the perpetrators, would not go near the bodies, did not react the way normally distraught relatives behave, and did not claim the bodies afterwards for a proper funeral.

⁴² Alsumaria, Al-Hawa Elak; Homosexuality, February 21, 2013, available at https://www.youtube.com/watch?v=mOVuAAwV_24 , See also Alsumaria, Al-Hawa Elak; Homosexuality, March 3, 2015, available at https://www.youtube.com/watch?v=_0F_pslp96A

⁴³ Id.

⁴⁴ Interview, Friday, January 23, 2015 (on file with authors).

⁴⁵ Iraqi-based human rights advocates report that official condoning of anti-LGBT “honor” killings is common practice, especially where tribal leaders hold greater influence than local government officials. Informing security forces ahead of time would ensure no officials would intervene with the killing.

Moreover, human rights advocates working on LGBT rights in Iraq are also subjected to violence and regular harassment by both private and state actors, and they as well are too often left without recourse to seek justice and redress for violence committed against them:

- In January 2014, four men abducted “Irfan”⁴⁶, an Iraqi human rights defender, from his home in Sulaymaniyah, and put him in a car then proceeded to drive towards the mountains with the intention of abandoning him there. Once inside, the men beat him while yelling insults at him and accusing him of being gay and severely injuring his foot in the process. Eventually, Irfan was able to escape from his assailants and get help to call the police. Afterwards, the police came and questioned Irfan and the four men about the incident, and then took everyone to the police station. However, on the way to the station, Irfan was treated as a criminal and not a victim by all police officers, and asked questions that were meant to insinuate that the police would not tolerate any LGBT-related activities. Furthermore, at the police station Irfan was held overnight and interrogated about his work and activities, and the police officers did not ask him anything about his assailants or what had happened to him. Additionally, he was put under pressure to confess to being gay. Eventually, Irfan was released in the early hours of the next morning since the police could not charge him with anything.

- In October 2014, Irfan was invited to participate in an international summit for youth leadership in a European country as a keynote speaker. At the summit, he carried the Iraqi flag and delivered remarks about his commitment to advocating for human rights of marginalized and at-risk individuals. Upon returning home to Sulaymaniah, he received a series of phone calls and messages threatening that he would be burnt alive for what he did at the summit. Furthermore, he also received several postings on his Facebook page regarding his speech at the summit criticizing him for openly discussing the topic of sexual orientation and gender identity. Later in October, while leaving Sulaymaniyah for Baghdad, he was accosted by two men claiming to be airport security while attempting to enter the Sulaymaniyah airport. He was put in a car and told he was wanted for a meeting. He was then taken to a home in an unknown location where he was held for interrogation for thirteen hours. Irfan was questioned about his job and work history. His captors informed him that his name now appears on a list of suspicious characters in the Kurdistan region. Furthermore, his phone, laptop and camera were also searched and broken. Before being released, Irfan was told he must obey the rules of the Kurdish government and work in a profession which serves the government and the society.

These examples serve to demonstrate not only the failure of the law enforcement personnel to thoroughly investigate and hold perpetrators accountable for violence committed against human rights defenders, it also indicates the complicity of police and regional government representatives in perpetuating further violence and harassment against these advocates.

⁴⁶ This is a pseudonym used in place of the activist’s real name for safety reasons.

B. Response by the Government of Iraq

In its report to the Committee, the Government of Iraq states that the principles of equality and participation are enshrined in its Constitution.⁴⁷ However, the only time the report makes reference to lesbians or gays is in defending the State's discrimination against them in protest and organizing activities. The Report fails to discuss or even acknowledge the LGBT population in Iraq beyond this open embrace of discrimination, which it justifies by referring to “the teachings of the Islamic sharia.” The use of custom or religion to justify discrimination and other human rights abuses is not permitted under international human rights law. For example, this Committee found that the protections of the right to religious freedom in Article 18 of the ICCPR “may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion.”⁴⁸ The Iraqi government may not rely on Shari'a or any other religious teachings or practice to justify discrimination under the ICCPR.

The Government's Report also points out that torture is prohibited under the Iraqi Constitution and Penal Code.⁴⁹ However, the Report focuses on instances of torture committed during or soon after the fall of the regime in 2003, and fails to mention ongoing anti-LGBT torture and killings. The extent of grave human rights violations committed against people based on real or perceived sexual orientation and gender identity, as well as the impunity with which state and private actors commit these acts, point to a systemic problem, which the Iraqi Government is obligated under the ICCPR to address.

Although no mention of it is made in the Government's report, we commend the Iraqi Government on the establishment and reformation of its LGBT Committee, which is tasked with the promotion and protection of LGBT people's human rights in Iraq. While as yet the Committee has been largely ineffective, we believe its reformation to be a positive step forward in the Iraqi Government's commitment to eradicating violence and discrimination against LGBT and gender non-conforming individuals, and abiding by its international human rights obligations.

C. Recommendations

- ⤴ The Government of Iraq should clearly and publicly state that it does not tolerate any form of violence or discrimination against persons because of their real or perceived sexual orientation or gender identity.
- ⤴ The Government of Iraq should take appropriate measures to collect comprehensive

⁴⁷ Human Rights Committee, Consideration of reports submitted by State parties under article 40 of the Covenant, Initial reports of States Parties, Iraq. CCPR/C/IRQ/5, 16 October 2013. at 15.

⁴⁸ Human Rights Committee, General Comment 28, Equality of rights between men and women (article 3), U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000), ¶ 21. The Committee on the Elimination of Discrimination Against Women also reminds states that human rights may not be undercut by religious belief, stating “[n]either traditional, religious or cultural practice nor incompatible domestic laws and policies can justify violations of the Convention [on the Elimination of All Forms of Discrimination Against women],” CEDAW Comm., General Recommendation No. 29: *Economic Consequences of Marriage, Family Relations and their Dissolution*, ¶ 54.

⁴⁹ Human Rights Committee, Consideration of reports submitted by State parties under article 40 of the Covenant, Initial reports of States Parties, Iraq. CCPR/C/IRQ/5, 12 December 2013 at ¶¶88-89.

information on and document human rights violations against LGBT persons within its territory, and to publicize its reports to raise awareness about the magnitude of these violations in Iraq.

- ⚡ The Government of Iraq should implement national policies to end the endorsement of and participation in violence or discrimination against anyone, including LGBT people, by the Security Forces of the Ministry of the Interior.
- ⚡ The Government of Iraq should work with Iraqi rights-based organizations to provide human rights trainings and education to Security Forces in order to combat violence and discrimination based on real or perceived sexual orientation and gender identity.
- ⚡ The Government of Iraq should work with Iraqi rights-based organizations to enact gender sensitivity and LGBT training and education programs for the Ministry of Health in order to prevent discrimination against LGBT people in healthcare.
- ⚡ The Government of Iraq should institute public awareness and sensitivity campaigns directed at changing harmful attitudes towards LGBT individuals.
- ⚡ The Government of Iraq should implement immediate and effective steps to investigate threats against LGBT persons and LGBT human rights defenders, and punish perpetrators to eliminate impunity for these crimes.

