



GICJ REPORT

August 2020

SITUATION OF  
**THE INTERNALLY DISPLACED PERSONS**  
INCLUDING THOSE WITH DISABILITIES

Interactive Dialogue with the Special Rapporteur on the  
Human Rights of Internally Displaced Persons

Geneva International Centre *for* Justice

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THE INTERNALLY DISPLACED PERSONS  
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Interactive Dialogue with the Special Rapporteur on the Human  
Rights of Internally Displaced Persons

The 44<sup>th</sup> session of the UN Human Rights Council

Geneva, 30 June-17 July 2020

**Written by: Razan al-Shammari**

**GICJ**

## **A. INTRODUCTION**

The Special Rapporteur on the human rights of internally displaced persons submitted two reports, A/HRC/44/41, and A/HRC/44/41/Add.1, at the 44th session of the United Nations' Human Rights Council, 15 June to 3 July 2020. The first report discusses persons with disabilities in the context of internal displacement; the latter presents an overview of the situation of internally displaced persons in Iraq.

This paper will consider the reports and relevant discussions that transpired at the 44th session of the Human Rights Council. The paper will, firstly, provide a summary of the key points discussed in the reports. It will then present the key statements made at the interactive dialogue with the Special Rapporteur. Lastly, this paper discusses GICJ position on the situation of internally displaced persons in Iraq, including aspects that were highlighted in its statement at the 44th session as well as expanding on elements which the Special Rapporteur ought to have considered as they are central to the issue of displacement in Iraq.

## **B. Reports of the Special Rapporteur**

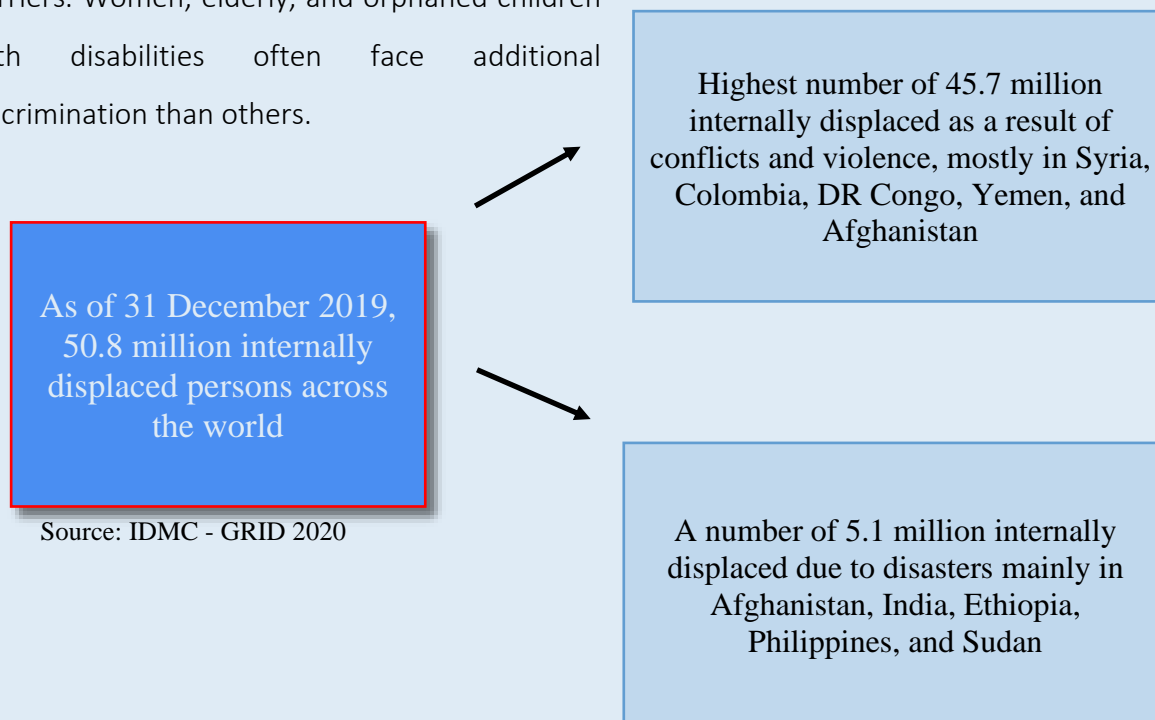
### **Summary 1: Persons with Disabilities in the context of Internal Displacement (A/HRC/44/41)**

The Special Rapporteur, Cecilia Jimenez-Damary, examines in her report, the experiences of persons with disabilities in the context of displacement. The report discusses the ongoing challenges and the measures that need to be taken by States, the UN, and other humanitarian actors to guarantee the human rights of persons with disabilities in displacement.

The report points out that climate change and other disasters contribute to increased numbers of persons in internal displacement every year, including those with disabilities.

## Discrimination

The Special Rapporteur emphasizes that persons with disabilities are not a homogeneous group and, therefore, require different approaches to support their various needs. They also face multiple forms of discrimination and stigmatization due to environmental and social barriers. Women, elderly, and orphaned children with disabilities often face additional discrimination than others.



## Barriers and participation

The Special Rapporteur emphasizes that persons with disabilities in internal displacement face barriers that hinder their participation in the society, and the decision-making process.

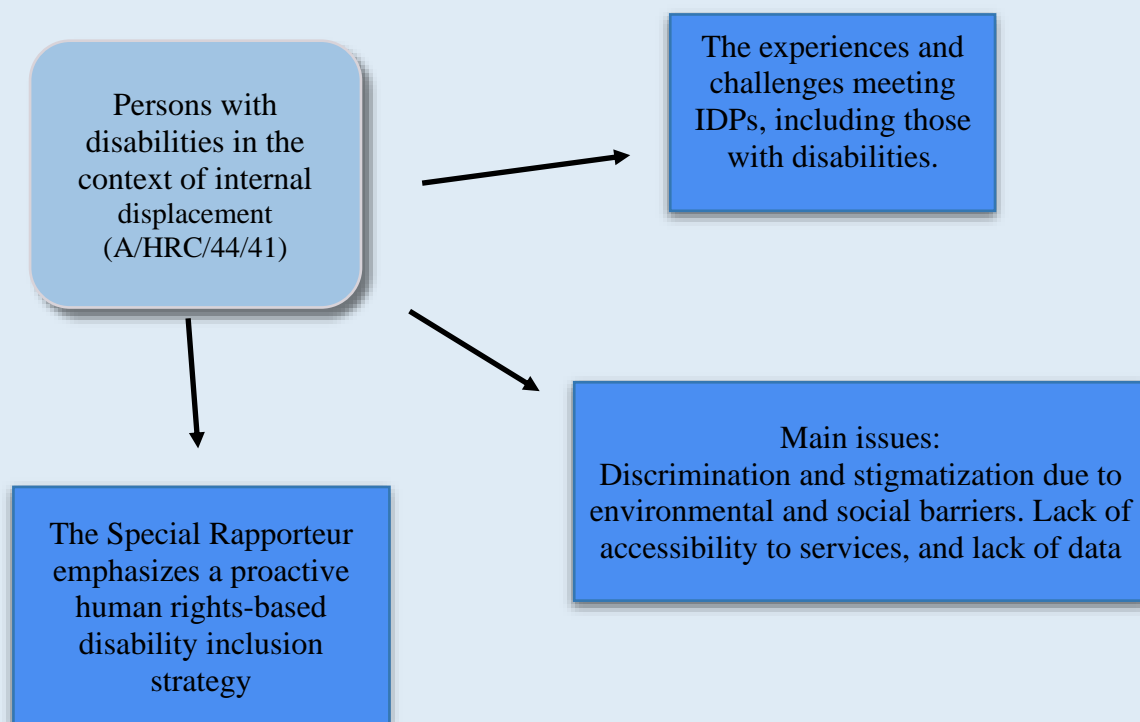
She distinguishes organizations “of” persons with disabilities from organizations “for” persons with disabilities and highlights the importance to prioritize concern and suggestions raised by organizations “of” persons with disabilities.

All internally displaced persons, including those with disabilities, must be consulted in developing law and policies related to displacement. This would be effective when shaping policies to reach durable solutions for persons in displacement, including those with disabilities. It would also reduce the stigma and discrimination of persons with disabilities.

There should also be easy access to information and communication. The Special Rapporteur points out that decision-making bodies should produce information in accessible formats, such as ensuring the availability of sign language interpretation, which is particularly important during the current situation of the COVID-19 pandemic.

### Protection

The Special Rapporteur notes that there is a higher risk for disabilities during forced displacement due to increased risks of injuries and lack of access to medical care. Internally displaced persons are also entitled to the protections guaranteed to civilians under the international humanitarian law (IHL). The Special Rapporteur also points out that State parties are responsible for protecting persons with disabilities in situations of armed conflict and disasters under article 11 of the Convention on the Rights of Persons with Disabilities.



### Lack of Data

The lack of data on persons with disabilities in internal displacement marks a challenge when analysing, planning, and implementing. In recent years, there has been a more accurate collection of data on internally displaced persons, including those with disabilities. However,

the Special Rapporteur highlights that States, who have ratified the Convention on the Rights of Persons with Disabilities (art. 31), need to respect the privacy of persons with disabilities when collecting data.

### **Accessibility of services and infrastructure**

The Special Rapporteur writes that persons with disabilities often do not enjoy equal access and aid as the others. Some of the displaced have lost their assistive devices, such as wheelchairs, during displacement. Also, temporary shelters or camps may not have a suitable environment for persons with disabilities, such as wide doorways or accessible toilets.

## **Summary 2: Visit to Iraq**

The Special Rapporteur on the human rights of internally displaced persons visited Iraq from 15 to 23 February 2020, (A/HRC/44/41/Add.1). Her visit was primarily to gather information on the human rights of internally displaced persons in Iraq, the obstacles and the challenges they meet.

Millions of people were internally displaced between 2014 and 2017 during the armed conflict against the so-called Islamic State in Iraq and the Levant (ISIL).

### **Civil documentation**

The Special Rapporteur witnessed overcrowded camps and shelters, where many persons in internal displacement are denied basic services, such as health care and education, due to the lack of documents. The Special Rapporteur witnessed mothers of children with disabilities who were denied health services and medical prescriptions because of the lack of documentation. She also met with children deprived of access to education because of the lack of civil documents.

### **Humanitarian access**

According to reports that the Special Rapporteur has received, there are many administrative restrictions on humanitarian activities that have marked challenges for the humanitarian organizations to assist internally displaced persons and returnees in need.

## **Returnees**

There has been no explicit cooperation between the Iraqi Government, camp management, humanitarian actors, and camp residents since the Iraqi Government closed and consolidated camps during the second half of 2019. The Special Rapporteur emphasized that several have returned to areas that were still unsafe, which is against the principles noted in the Principled Returns Framework, which led to secondary displacement.

## **Discrimination and group minorities**

The Special Rapporteur paid attention to the discrimination that the ethnic and religious minorities faced, not only by the ISIL but also human rights violations committed by the Iraqi security forces and pro-government forces against civilians, including minorities.

The Special Rapporteur has also received reports of sexual and gender-based violence against mainly internally displaced women and girls. Some cases even show that security actors inside the camps committed such sexual harassment.

## **Affiliation to ISIL**

The Special Rapporteur notes that the restrictions on the movement of families with a perceived affiliation to ISIL are not in accordance with principle 14 of the Guiding Principles on Internal Displacement and article 12 of the International Covenant on Civil and Political Rights. Restrictions of the freedom of movement should have a legitimate aim, be temporary, proportionate, necessary, and consistent with other human rights provisions, all of which do not apply to the restrictions made by the authorities in Iraq.

The Special Rapporteur also highlights article 19 of the Constitution of Iraq, and in accordance with international law, that criminal responsibility should be held individually and not collectively.

## **C. The Interactive Dialogue with the Special Rapporteur**

At the 44th session of the Human Rights Council, the Special Rapporteur presented her reports. She mentions that the protection of the human rights of internally displaced persons during

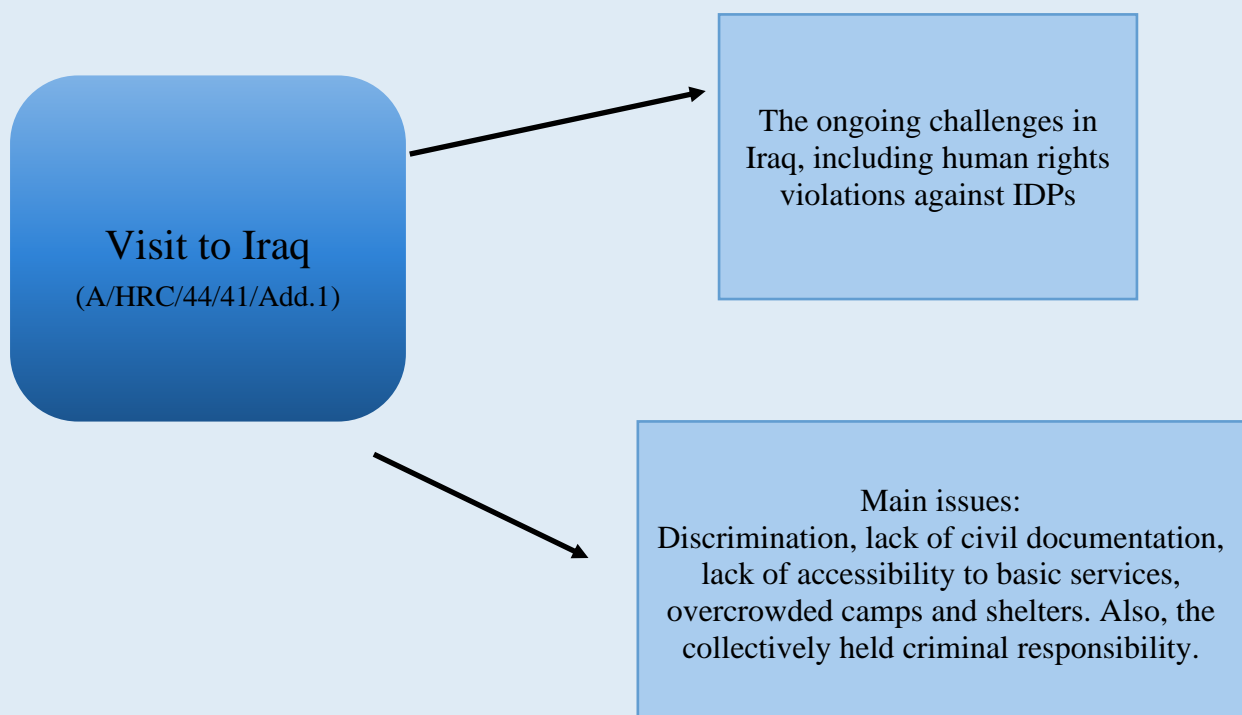


the COVID-19 pandemic is one of her priorities. Regarding her first report, she encourages States and other actors to shift from awareness of disabilities to a proactive human rights-based disability inclusion strategy.

Moving to the second report on her visit to Iraq, the Special Rapporteur calls on the Government of Iraq to ensure that returns are safe, voluntary, informed, and dignified. She also emphasized that there will be no recovery in Iraq without addressing the human rights of IDPs.

### **Iraq as the country concerned**

The delegation of Iraq stated that the Iraqi Government provides sufficient resources and assistance to cover the needs of IDPs and returnees, providing them with documents that enable them to return home safely. The Government of Iraq is also providing medicine and assistance to the camps, as stated by the delegation. As for the children in internal displacement, Iraq has provided temporary schooling in displacement areas to ensure the continuation of education.



The delegation also included that military forces were committed to civilians' safety through a plan used in military operations. The delegation also expressed its regret that the Special Rapporteur did not include the Government's observations, and neither did mention terrorism as a root cause of displacement in her report.

The Special Rapporteur emphasised the importance of civil documentation. However, the delegation of Iraq did not make a clear statement of how the Iraqi Government or the governorates are handling the issue of the lack of documents. Those who cannot obtain or renew their civil document are denied access to assistance, medication, returns, and face limited movement. Neither can internally displaced children continue with their education without civil documents.

The Government of Iraq and the Iraqi military forces have the responsibility to protect the internally displaced persons in armed conflicts, as the internally displaced are also entitled to the protections established under the international humanitarian law. However, there are documented cases showing that Iraqi armed forces, and militias acting under these forces, are committing human rights violations against the internally displaced, as the Special Rapporteur herself noted in her report.

Terrorism was also mentioned throughout the report as a root cause of the displacement of many people in Iraq. The delegation failed to make an accurate statement.

## **The European Union**

The European Union made it clear that persons with disabilities in internal displacement are the most vulnerable, facing discrimination and neglect.

The European Union also stated that they are assisting governments worldwide to protect internally displaced persons. They also emphasize the offering of safety nets for the poorest households.

The EU asks the Special Rapporteur on how to ensure the rights of the most vulnerable among the internally displaced populations, especially persons with disabilities.

The offering of safety nets for the poorest households and the most vulnerable, as stated by the EU, is important. It applies to the core principle of "leaving no one behind" of 2030 Agenda.

## **Individual EU States;**

The delegation of Austria aligns its statement with the EU. They also ask the Special Rapporteur how to strengthen the accountability for human rights violations of the most vulnerable, including those with disabilities and what role the different UN bodies can play in this regard.

The delegation of Ukraine stated that the ongoing problems caused by the Russian Federation in Ukraine have resulted in 1,5 million of the Ukrainian citizens fleeing conflict-affected areas, which makes Ukraine have the highest number of internally displaced in Europe.

The delegation of Switzerland made it clear that the 2030 Agenda promise of leaving no one behind cannot be promised if there is no inclusion of internally displaced persons, including persons with disabilities.

## **Burkina Faso on behalf of the African Group**

The African Group appreciates the proactive attitude to work with the Special Rapporteur.

Internally displaced persons can have their human rights undermined; therefore, it must be ensured that there are facilities and social assistance in accordance with relevant articles in the Kampala Convention.

Mentions the impact of COVID-19 on internally displaced persons, including those with disabilities, that require humanitarian aid and health care.

Asks the Special Rapporteur on the best strategies to improve the participation of persons with disabilities in decision-making processes.

Several African countries (Nigeria, Niger, Burkina Faso, and Mali) have also addressed the problems of the terrorist attacks in the Sahel region.

The delegation of Nigeria aligns itself with the statement delivered on behalf of the African Group. The delegation mentions several measures taken by the Nigerian Government in providing help to victims from terrorist activities and natural disasters.

The delegation of Niger aligned with the statement delivered by Burkina Faso on behalf of the African Group. The delegation stated that Niger and the Sahel region face terrorist attacks and disasters, which results in the displacement of populations.

Delegation of Burkina Faso stated that since 2015, the country has been suffering from terrorist attacks and non-state armed groups, which has led many citizens to flee, including persons with disabilities.

The delegation of Mali also stated that since 2012, many people were fleeing terrorist activities.

Therefore it is clear that terrorism is a serious root cause of internal displacement, and it requires cooperation, not only in the international arena but also at the regional level. The Kampala Convention reflects such collaboration at the regional level.

### **States in Asia**

Several ongoing conflicts, either domestic or intergovernmental, cause populations to flee and often trapped inside their own country. (In comparison with the conflicts in Europe, the Ukrainian crisis, which has and still causes many people to flee).

The delegation of Afghanistan points out the importance of regional commitment, which is an effective point that several countries did not mention.

Armenia's delegation expressed its concerns about the discrimination of minorities, with reference to the Special Rapporteur's report on her visit to Iraq. The delegation added that they support these minorities.

Therefore, Azerbaijan's delegation stated that the Nagorno-Karabach conflict, which is an ethnic and territorial conflict between Azerbaijan and Armenia, has resulted in more than 1 million displaced Azerbaijani people, nearly 700 thousand of these are IDPs. Azerbaijan expressed that the displacement in Azerbaijan is due to the ongoing military aggression and occupation by Armenia.

These kinds of conflicts need to be addressed, as the civilians are the only ones who suffer severely from these ongoing conflicts. Addressing these disputes and improving diplomatic relations would be effective in search of durable solutions for the internally displaced populations. The regional commitment is, therefore, a crucial measure to be considered by all States in the concerned region.

Myanmar's delegation stated that the Government of Myanmar offers to ensure the rights of internally displaced persons with disabilities. Persons with disabilities are also guaranteed fundamental rights, including the rights to health care, education, inclusion, and participation without any discrimination, according to the delegation. With the impact of COVID-19, Myanmar is also applying the “No one left behind” principle.

Myanmar's statement does not reflect reality, as there are many human rights violations committed by the Government in Myanmar against the Rohingya people. The Rohingya do not enjoy equal rights as the others, and they are deeply discriminated as an ethnic and religious minority.

### **UNHCR (Video)**

The UNHCR recognizes that persons with disabilities are the most vulnerable and affected in internal displacement; therefore, the UNHCR supports the recommendations made in the report by the Special Rapporteur.

The UNHCR seeks after strengthening partnerships with organizations *of* persons with disabilities. And the organization remains firmly committed to collaborating with member States and the Special Rapporteur.

### **The Holy See (Video)**

The Holy See states that there is an urgent need for extensive cooperation with the international community on internal displacement; however, national sovereignty should always be respected. And that partnership with religious organizations could be helpful, as they can provide psychological and spiritual assistance.

National sovereignty is an important reminder made by The Holy See that not many countries mentioned. It is a no questionable principle that should always be respected.

### **Final remarks of the Special Rapporteur**

The Special Rapporteur says that we need to change mindsets in order to ensure human rights and the inclusion of IDPs with disabilities and that we need to support and assist persons with

disabilities in displacement to ensure their participation in decision-making and problem-solving processes.

## **D. The position of Geneva International Centre for Justice**

At the interactive dialogue, Geneva International Centre for Justice delivered a joint statement with the International Organization for the Elimination of All Forms of Racial Discrimination.

The GICJ statement highlighted that many internally displaced persons in Iraq have fled due to the Iraqi government's own operations against ISIL. The armed groups, state-based or not, have committed violations against the internally displaced persons, including killings, and preventing many of them from returning home. Moreover, the violence inflicted on the Iraqi people by both the Iraqi forces and militias, has caused an influx in internally displaced persons. The Iraqi people have had their homes destroyed, with many killed, tortured, or disappeared. Those that have fled have been abandoned by the Iraqi government to fend for themselves. This has led to them being subjected to even greater violence while already displaced and seeking refuge. To aggravate matters, the violence that they face continues with impunity without any credible investigations taking place or perpetrators being held accountable.

The GICJ statement also underlined the Iraqi system of government, a sectarian system (Muhasasa), which relies on the militias. As GICJ has repeated persistently over the years, Iraq's sectarian system of government is highly discriminatory and is a corrupt system which elevates a ruling class of elites to the detriment of minorities. These elites hoard resources and wealth, and occupy key positions of government through nepotism and cronyism which allows them to suppress others and retain power. GICJ continues to call for the dismantling of this elite based sectarian system of government as without a profound change of system, the Iraqi government will remain incapable of resolving the militia problem, ensuring peace and stability, and rooting out the embedded corruption that has crippled Iraq's economy.



Iraqi IDPs left without governmental assistance (GICJ photo-2018)

At the interactive dialogue, the delegation of Iraq did not consider nor address many of the issues central to displacement in Iraq as, unfortunately, they were absent from the Special Rapporteur's considerations in her report. The Special Rapporteur mentioned terrorism as a root cause of displacement; however, there are many other roots to the rotten tree and it appears that several other key issues and underlying causes of displacement were deliberately avoided. The Special Rapporteur did not mention the influence of militias in the Iraqi political system, where there have been many past cases and overwhelming evidence linking militia activities to key members of the Iraqi government. GICJ has repeatedly drawn the attention of UN Special Procedure mandate holders to the notorious fact that the Iraqi government is beholden to various militias and this includes all branches of government whether it be the legislative, executive or judiciary. GICJ has repeatedly drawn a linkage between the prevalent impunity for the systematic, gross and widespread human rights violations committed by militias to the fact that the Iraqi government is, not only powerless against militias, but complicit in many of their violations.

GICJ urges the Special Rapporteur to address the Iraqi government's affiliation with militias which has contributed to the systematic, gross and widespread violations leading to displacement and the prevalent impunity for these violations which continue without recourse,

redress, response, or reparation. There is simply no justice and the Iraqi people will continue to be displaced, fleeing for their lives unless these key underlying issues are addressed. GICJ firmly believes that addressing these issues will contribute to a better understanding of the violations leading to displacement, and committed against internally displaced persons in Iraq. GICJ further urges the Special Rapporteur to place greater scrutiny on the Iraqi government's role in causing internal displacement and their efforts (or lack thereof) towards ensuring accountability and justice for violations leading to internal displacement.

GICJ further cautions the Special Rapporteur that the Iraqi government cannot be relied upon and must not be considered a reliable source of information or trustworthy partner, as past cases and investigations have revealed that they have been complicit in the violations executed by militias. To be dependent on the Iraqi government is to allow them to control the narrative, conceal their complicity in violations, and essentially to enable the continuation of these violations with impunity.

GICJ urges the HRC to put pressure on Iraq in order to take responsibility, address the issue of the militias, remove those within its administration that are beholden to militias, hold perpetrators to account, and bring justice to survivors and victims.

GICJ further reiterates its call for the establishment of an international tribunal to investigate and prosecute the human rights violations committed in Iraq since 2003 as this would guarantee true justice in Iraq.



# Geneva International Centre *for* Justice

## GICJ

GICJ is an independent, non-profit, international non-governmental organization dedicated to the promotion and reinforcement of commitments to the principles and norms of human rights. GICJ is headquartered in Geneva, Switzerland and is governed by the Swiss Civil Code and its statutes. Basing its work on the rules and principles of International Law, International Humanitarian Law and International Human Rights Law, GICJ observes and documents human rights violations and seeks justice for their victims through all legal means available.

### Mission

GICJ's mission is to improve lives by tackling violations and all forms of violence and degrading or inhumane treatment through the strengthening of respect for human rights; reinforcing the independence of lawyers and judiciaries; consolidating the principles of equity and non-discrimination; ensuring rule of law is upheld; promoting a culture of awareness on human rights; and combating impunity.

### Work

GICJ has been tackling issues of justice and accountability since it was established. GICJ maintains a partnership with various NGOs, lawyers and a vast civil society network around the world. Through these channels, GICJ is able to receive documentation and evidences of human rights violations and abuses as they occur in several countries. GICJ continues to bring this information to the attention of relevant UN bodies in order to gain justice for all victims.





# Geneva International Centre *for* Justice

Independent, International non-governmental organisation

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