Perpetrators will not hold themselves accountable

Justice remains elusive for the victims of the October 2019 protests in Iraq

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*Cover Photo:*

Iraqi security forces use violence to disperse protesters in Baghdad - 27 January 2020 (AP)
Introduction

In early October 2019, thousands of Iraqis in the capital of Baghdad and other provinces took to the streets to protest the difficult economic conditions and high rates of poverty and unemployment, as well as the corruption believed to be prevalent throughout the state. The protests lasted several months before dissipation due to the outbreak of the COVID-19 pandemic in the country.

Iraqi security forces used excessive force against protesters. They stationed snipers near demonstration sites and sit-in squares, and unleashed violent repression against protesters through the use of live ammunition, detention, torture, beatings, and humiliation—killing approximately 730 Iraqis and injuring over 25,000 more. Moreover, dozens of demonstrators were subjected to enforced disappearance during the six-month protest period. The
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The widespread participation of armed militias in the crackdown on demonstrators during this time was notable; hundreds of armed men allegedly belonging to Iraqi political forces and parties were involved in the killings of demonstrators and their “disappearances” in unofficial detention facilities, where they were subjected to various forms of abuse.

Despite former Prime Minister Adil Abdul-Mahdi’s formation of an official inquiry commission to investigate the violations against demonstrators, and the formation of another official commission by Mustafa Al-Kadhimi—who assumed the prime ministership in May 2020—justice has remained elusive. No one has been held criminally responsible for the repression and killings, as the authorities have merely dismissed several security leaders and financially compensated families of the deceased and injured. Concerning the kidnapping and enforced disappearance of activists and demonstrators, investigations to date have not revealed the fate of these people, and families’ questions about the fate of their sons remain unanswered.

The Euro-Med Human Rights Monitor team interviewed a group of protest victims, as well as families whose sons were killed or disappeared, and documented their testimonies about the criminal investigation process. All of those who testified said they are still waiting for justice, and all agreed that official investigations are ineffective in the absence of regular communication mechanisms between investigation authorities and victims or their family members.

In this brief report, Euro-Med Monitor seeks to explain the lack of accountability for the violations committed against demonstrators during the October 2019 protests in Iraq, review the results of the work of governmental inquiry commissions and consider possible reasons for their failure, and provide practical recommendations that may contribute to bringing justice to victims and preventing impunity for perpetrators.
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Government inquiry commissions
Several commissions were formed over the past three years to investigate the killing and repression of protesters during the October 2019 protests, the most prominent being two government commissions. The first commission was formed by Adil Abdul-Mahdi, Iraq’s prime minister at the time of the events, and the second by the now-outgoing Prime Minister Mustafa Al-Kadhimi after he assumed the role in May 2020.

• First government inquiry commission
With the escalation of protester killings and repression, then-Prime Minister Adil Abdul-Mahdi announced on 12 October 2019 the formation of a high ministerial committee to investigate the events, led by then-Minister of Planning Nouri al-Dulaimi. Ten days later, the committee issued a report outlining its findings and recommendations, including the following:

• Confirmation of the deaths of 149 civilians and eight soldiers during the initial six-day protest in early October 2019
• Recommendation to dismiss the Baghdad Operations Commander, Baghdad Police Commander, and Ar Rafidayn Operations Commander, as well as the police commanders of the Dhi Qar, Maysan, Wasit, Diwaniyah, and Najaf governorates in light of the violence
• Revealing evidence that snipers fired live ammunition at protesters from a central Baghdad building
• Documentation that, according to medical reports, 70% of demonstrators’ injuries were to the head or chest
• Emphasis that higher authorities did not issue official orders to shoot demonstrators
• Full referral of the investigation to Iraq’s judiciary by Abdul-Mahdi

The commission’s report drew harsh criticism from victims and their families, as well as human rights organisations, because it appeared to seek to absolve the political and security leadership of responsibility in the killing of protesters, plus provide impunity to the actual
parties who gave orders to carry out the repressions. In addition, critics of the report pointed to a lack of clarity in the process of determining criminal responsibility for the violations, and expressed concern over the risk of leaving the door wide open for impunity.

Despite Abdul-Mahdi’s announcement that the investigation’s findings had been referred to the judiciary, the Supreme Judicial Council on 4 October 2020 denied receiving “a file concerning the perpetrators of the murders and kidnappings of the October protesters” and stated it had received only “an administrative investigation file that did not include [the names of] specific defendants” or contain information indicating “the negligence of any party, whether institutional or personal”. Thus, it can be stated that the first inquiry commission failed to establish any criminal accountability for those involved in the violations against demonstrators.

**Fact-finding commission**

The formation of a supreme legal commission—a fact-finding commission—was announced by newly-named Prime Minister Mustafa Al-Kadhimi on 9 May 2020, and was set up to investigate all events that occurred between 1 October 2019 and the date of the commission’s formation.

During a meeting on 4 June 2020 with the families of those killed in the demonstrations, Al-Kadhimi stated that he was directing “detailed criminal investigations into the assassinations” and that he was “personally” launching and following up on these investigations. Al-Kadhimi promised families that “the blood of their sons” would not be in vain, and that the law would “exact vengeance on anyone who has Iraqi blood on their hands”.

On 30 August 2020, Al-Kadhimi announced the completion of phase one of the government’s commitment to “investigating the facts about the October events, by registering the toll of the martyrs and injured and processing their legal entitlements”. 
The fact-finding commission’s first meeting was held on 18 October 2020, and it included five retired judges as well as several investigators and experts. Al-Kadhimi said at the time that “the formation of this team does not seek vengeance so much as it represents the [responsibility of the state to] the bleeding people. Those who have shed Iraqi blood must face justice, and no one is above the law”.

On 28 May 2021, the fact-finding commission’s spokesman Mohammed Al-Janabi stated that the team’s advisor confirmed that “identifying the perpetrators is a matter of time”. He noted that this was because of the legal and judicial process, which required the disclosure of documents and evidence as well as time for “the review of forensic medicine records, the hearing of witnesses and victims’ families, [and] the summoning of the accused, to ensure that a correct judicial decision is issued by the competent courts without any legal loophole, error, or arbitrary accusation”. Al-Janabi confirmed that during the commission’s work, 112 officers and affiliates were summoned to investigate the events, including 22 officers ranging in rank from captain to major general, and approximately 90 affiliates from the Ministry of Interior and Defence. “The commission requested over 7,000 judicial documents from the competent courts, which were reviewed by members of the fact-finding commission”, Al-Janabi said. He added that it also “summoned martyrs’ families from across the governorates, recorded their testimonies, and referred them to official institutions such as the Martyrs Foundation to compensate them and incorporate [their testimonies] into the country’s laws”.

As of the publication of this report, however, the commission had not yet announced the results of its work, and none of the parties involved in the killing and repression of demonstrators had appeared in court. Speaking on the reasons for this, Iraqi Minister of Interior Othman al-Ghanmi stated in January 2021 that the failure to achieve results is because some of the killings of
demonstrators in Baghdad “occurred as a result of definitive personal actions”, and that “because of a now-fixed defect, surveillance cameras did not contribute to [exposing those behind the] protester killings.” He also described acquiring the facts as a “complicated matter”.

**Fact-finding commission on the existence of secret prisons**
A separate fact-finding commission was established as a result of a Diwani order issued by Al-Kadhimi on 14 May 2020 to investigate the existence of secret government prisons holding protesters. Though the commission was given broad powers to send inspection teams into any security institution or building suspected of housing a secret prison, no details or results of the its work were announced.

**Situation of the victims**

- **Deaths**

Since the beginning of the October 2019 protests, security forces and armed militias have used excessive force against demonstrators including machine guns and automatic weapons, which has resulted in a large number of deaths—totalling approximately 730 Iraqis over the course of six months.

As of the publication of this report, criminal accountability for these crimes had not been achieved, and neither those who issued the orders nor those who carried them out were held accountable. Iraqi authorities only provided financial compensation to victims’ families in the form of a monthly salary of 1,200,000 Iraqi dinars (approximately 827 euros).

According to testimonies gathered by Euro-Med Monitor, victims, particularly families of the deceased, face delays that appear to be systematic when filing claims about the killing of their family members, and sometimes investigation procedures
are halted due to security forces’ refusal to cooperate with the competent judicial authorities.

“...The family of Ameer Saad Jaber, a young man killed on 4 October 2019 near the building which houses the Diwaniyah Governorate Council, spoke to the Euro-Med Monitor team: “We filed a complaint, and an investigation into Ameer’s murder was launched. The file was transferred from Diwaniyah Governorate to Baghdad, and the main suspect in the case was a detachment of the First Iraqi Special Operations Brigade (or Golden Division), which was located above the governorate council building”.

Furthermore, several families of the deceased did not receive promised compensation from the government until two years after their sons were killed, and families were sometimes paid only half of the announced compensation salary.

In a testimony to the Euro-Med Monitor team, the family of Ameer al-Kinani, who was killed on 25 October 2019 after participating in the protests, confirmed this. “Ameer’s death was not officially investigated”, they said, “and we only received half of the announced compensation salary two years later”.

**Injuries**

More than 25,000 demonstrators were injured as a result of security forces and armed militias attacking protesters in October 2019, with some serious injuries resulting in near-complete disability. Like those involved in the killings, individuals involved in these attacks were not held accountable, and authorities merely referred a number of cases for treatment outside the governorates in which they reside—and in some cases outside Iraq—and announced the payment of monthly salaries to the injured based on the degree of disability.
Some of the injured protesters reported to the Euro-Med Monitor team that they did not receive the full monthly compensatory pay stipulated by the government, despite being almost completely unable to move due to the extent of their injuries.

“On 5 February 2020, I was shot while participating in the Najaf demonstrations,” protester Kamil Abdul Hussein, 21, told Euro-Med Monitor. “The bullet rendered me quadriplegic, preventing me from leading a normal life. Although I filed an official complaint, the appropriate authorities did not follow up. I was not compensated and no one responsible for my paralysis has been held accountable to date”.

In some cases, the injured were denied compensation because they could not apply for compensation for lacking the necessary fees.

“On 25 October 2019, I was hit by a tear gas canister at Baghdad’s al-Jumhuriya Bridge, resulting in a fracture in my right leg”, Dargham Haider Mahdi, 27, told the Euro-Med Monitor team. “The medical report confirmed a bone fracture, but I was unable to complete the compensation application due to high fees that exceeded my financial capabilities. I have not received any compensation to date, and I filed a formal complaint but received no response”.

On 8 September 2021, Al-Kadhimi met with a group of injured protesters as part of a promise to “follow up on their humanitarian cases”. However, he told them that while the government had attempted to grant them “full and undiminished rights”
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through the Council of Ministers’ issuing of a decision to financially compensate the victims and treat their injuries, “unfortunately, Parliament refused”.

• Forcibly disappeared
Enforced disappearance was one of the most prominent and dangerous forms of violation that accompanied the October 2019 protests, with dozens of people being forcibly disappeared as a result of their protest activities. Despite numerous promises to uncover their fate, Iraqi authorities have so far failed to do so.

“Sajjad was active in exposing corruption cases through his accounts on social media, and actively participated in the October protests. On 19 September 2020, he was kidnapped by one of the parties known to us, and we informed security authorities of the identity of the potential kidnappers, but [the authorities] did not cooperate. It’s been over two years since Sajjad was kidnapped, and we still don’t know what happened to him. “We filed complaints with several security and judicial departments, providing them with personal information and even photos of potential kidnappers, but our complaints were ignored. We saw no evidence of their holding the kidnappers accountable or revealing Sajjad’s fate”, the family added.

The family of forcibly disappeared activist Sajjad al-Iraqi said in a testimony to the Euro-Med Monitor team:

“Sajjad was active in exposing corruption cases through his
In some cases, security and judicial authorities did not cooperate with the families of the deceased, and instead acted in a seemingly coordinated manner to ignore families' complaints, ostensibly to delay the complaints procedures and complicate accountability of those involved in the killings, giving them an opportunity to escape punishment.

“Ali was abducted on 9 October 2019 near the headquarters of the Popular Mobilisation Authority in the city centre of Amarah by gunmen in two vehicles, the details of which were clearly visible in a CCTV camera footage from a nearby shop”, the family of forcibly disappeared activist Ali Jaseb informed Euro-Med Monitor. “We filed a lawsuit in the Amarah Court against one of the militias we believe is responsible, but the court refused to cooperate and did not issue an arrest warrant, and security forces failed to conduct a thorough investigation to uncover Ali’s fate”.

The family believes that activities and events organised by Ali’s father led to his killing, which is also why the court transferred Ali’s case file to Rusafa Court in Baghdad. “But the court and security forces in Baghdad were more negligent than those in the Amarah”, they said. “Despite his providing information, including the names of potential perpetrators, security officials barred the victim’s father from meeting the judge and expelled him from court, preventing him from inquiring about the latest developments in the investigation”.

“We met with Prime Minister Mustafa Al-Kadhimi, who promised to bring us Ali himself,
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but this promise has yet to be fulfilled, and we are still waiting for any piece of information regarding Ali’s fate.”

### Failure of inquiry commissions

Upon reviewing and following up on the work of the inquiry commissions investigating the human rights violations that accompanied the October 2019 protests, it is clear that they failed to achieve the goals for which they were established, foremost of which was bringing justice to the victims. This could be due to several reasons, most notably:

1. The first investigation committee formed by former Prime Minister Abdul-Mahdi lacked impartiality, and therefore, was not expected to be independent and honest in its work, as some members in its membership belonged to parties accused of participating in the repression of protests, which significantly impeded investigations.

2. The strong influence of the parties whose members are accused of involvement in the killings, particularly the security and judiciary, hampered the progress of investigations and posed a significant barrier to victims’ access to effective justice. The parties’ influence also prevented competent authorities from conducting investigations into specific murder cases, providing impunity to the perpetrators and allowing them to avoid punishment.

3. The worsening political process and escalation of clashes between Iraqi forces and political parties created a state of political unrest, undermining Al-Kadhimi’s fact-finding commission, causing it to lose the momentum and support necessary to conduct investigations effectively, and limiting its ability to cooperate and coordinate with some of the concerned parties.

4. The failure of judicial authorities to directly take over the investigation left the door open for inquiry commissions...
to delay the processing of cases, as it was necessary to refer them to the competent courts and provide them with the evidence necessary to begin the criminal accountability process. Furthermore, there was a lack of communication and coordination between the commissions and the concerned parties (both the families of victims as well as concerned Iraqi civilians), as testimonies of victims’ families revealed that the commissions had no unified mechanism in place to cooperate with them and follow up on their cases. Additionally, the commissions did not issue periodic public statements on the progress and outcomes of investigations.

Legal background

Individuals and groups, regardless of background or affiliation, have the right to peacefully demonstrate under international human rights law. Although human rights treaties do not explicitly mention the right to demonstrate, participation in demonstrations includes several rights that are explicitly mentioned, such as the right to peaceful assembly and freedom of expression.

During the October 2019 protests, Iraqi authorities failed to protect protesters’ right to peaceful assembly and expression and violated international rules and standards on the use of force, particularly the principles of legality, necessity, and proportionality.

The Iraqi Constitution and Iraq’s international obligations guarantee individuals’ rights to freely express their opinions without harassment or restriction, and obligate authorities to protect this right. Iraqi authorities are also required by relevant domestic and international obligations to hold all those involved in human rights violations criminally accountable and to ensure that rights abuses do not go unpunished.

Among the most prominent international and domestic provisions and laws are:

- **Accountability**
  
  Article 2 of the 1966 International Covenant on Civil and Political Rights, which Iraq ratified in 1971, stipulates that the state is responsible for holding perpetrators
accountable and providing victims with means of complaint:

Each State Party to the present Covenant undertakes to:

(a) To ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 2 of the 1984 Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, to which Iraq acceded in 2011, stipulates that states must take effective measures to prevent torture and must not invoke orders to carry out torture.

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

• The right to freedom of expression and peaceful assembly

Peaceful assembly is one of the most important rights that the Iraqi state must protect and actively promote, and it is the state’s responsibility to hold accountable those responsible for restricting or violating this right.

The 1966 International Covenant on Civil and Political Rights, especially in Articles 18, 19, 21, and 22, guarantees freedom of opinion, expression, and peaceful assembly and association, and prohibits restricting these rights. Similarly, Article
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38 of the Iraqi Constitution guarantees the freedom of expression, the press, and the media, as well as the freedom of assembly and peaceful demonstration, as it states:
The State shall guarantee in a way that does not violate public order and morality:
1. Freedom of expression using all means.
2. Freedom of press, printing, advertisement, media and publication.
3. Freedom of assembly and peaceful demonstration, and this shall be regulated by law.

Furthermore, ensuring the right of Iraqis to life, security, and freedom is a fundamental responsibility of the state, as stated in Article 15 of the Iraqi Constitution: “Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority”.

- **Enforced disappearance**
  Many international and Iraqi legal legislations emphasise the prohibition of the crime of enforced disappearance, most notably the 2006 International Convention for the Protection of All Persons from Enforced Disappearance, which Iraq ratified in 2010, and therefore must abide by its provisions.
  Article 1 of the Convention states that:
  1. No one shall be subjected to enforced disappearance.
  2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.
  
  Similarly, the Iraqi Constitution guarantees everyone the right to security and freedom.
  Article 19 of the Iraqi Constitution prohibits arrest or imprisonment in places other than those designated for that purpose, and requires that the detained person’s preliminary investigative documents be submitted to a judge within 24 hours of
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arrest; the term may only be extended once, and for the same period of time.

- **Compensation**

  Compensation for the victims—the families of the deceased and injured, as well as all those who were subjected to attacks while engaged in a legitimate and peaceful activity—is a constitutional duty on the part of Iraqi authorities that should be carried out comprehensively and without delay, as per the provisions of the Law on Compensation for Those Affected by War Operations, Military Mistakes, and Terrorist Operations No. 20 of 2019, which stipulates in Article 2 that:

  The compensation provided for in this Law includes the following damages:
  
  1. Martyrdom or being missing as a result of the operations provided for in this Law.
  2. Full or partial disability based on the report of a competent medical committee.
  3. Injuries/casualties and other cases that require temporary treatment based on the report of the medical committee specialised in this field.

  It is also the state’s responsibility to compensate those arrested and detained for the harm they have suffered, as stated in Article 9 of the International Covenant on Civil and Political Rights:

  - Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
  - Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

**Recommendations**

Given the circumstances that led to the inquiry commissions' failure to bring justice to victims, hold perpetrators accountable, and prevent impunity, as well as the strong influence of the parties whose members are accused of participating in the killing of protesters, Euro-Med Human Rights Monitor recommends the following:
• United Nations
1. Establish an international commission of inquiry to investigate all crimes committed by Iraqi security forces and armed militias during and as a result of the October 2019 protests.
2. Create a direct and secure channel of communication with the victims that allows them to present evidence without fear of information being leaked to influential parties.
3. Set a specific time frame for the accountability process, and ensure that all necessary support and facilities will be provided to complete the task.

• Iraqi law enforcement authorities
1. Adopt an effective strategy to independently and thoroughly investigate all violations committed against protesters during the October 2019 protests, in order to hold all those involved criminally accountable and prevent impunity.
2. Make all possible efforts to uncover the fate of those who have been forcibly disappeared, block any attempt to cover up those who are responsible for enforced disappearances, provide full protection to individuals with information or evidence related to these crimes and handle the information provided confidentially and professionally.
3. Facilitate administrative and legal procedures for the victims, allow them to file judicial complaints, and provide them with access to the entire amount of compensation stipulated by law.

• Political parties and forces
1. Accept the need to hold those responsible for the crimes committed against demonstrators during the October 2019 protests accountable, and refrain from obstructing the work of relevant inquiry commissions or refusing to assist in the apprehension of perpetrators.
2. End political and institutional impunity for those accused of suppressing and killing demonstrators and abstain from using influence to protect or prevent the accused from being held accountable.
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3. Cooperate with relevant authorities in the cases of the forcibly disappeared, treat these cases as a top priority, and refrain from concealing any information that may be useful in determining the fate of people who have been forcibly disappeared.
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