REPORT TO THE
UNIVERSAL PERIODIC REVIEW
(THIRD CYCLE)

IRAQ- KURDISTAN REGION

Submission to the stakeholders' summary

Submitted by

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Violations of constitutional and legal frameworks:

Article 31 of the Iraqi constitution of 2005 guarantees the right to health to all Iraqis[1]. The draft constitution of the Kurdistan region of Iraq (KRI) states the same. Article 24 of the draft constitution of the KRI states: 'everyone shall have the right obtain healthcare and medical treatment, regardless of their ability to assume the expenses thereof'[2].

As part of the second cycle of the UPR of 2014, Iraq made a number of statements in its national report. The Iraqi authorities claimed that the Ministry of Health (MoH) 'has developed a number of plans, programmes and policies…which focus on the creation of a health system that gives priority to primary health care and ensure that health services meet the needs of individual and of society as a whole in line with international health standards'[3]. The report goes on to present some data that shows the progress that was made in the health sector as of 2014. It states that the share of the MoH from the national budget was 5% in 2012 and 5.3% in 2013.

As detailed below, unfortunately the constitutional and legal provision have not been respected. They were not translated into legal frameworks to implement.

Recommendation 1:

- Respect the Iraqi constitution and draft constitution of KRI when it comes to the right to health.
- Translate those provisions into implementable policies and programmes to respect, protect and promote the right to health
- Translate the right to health in all programs and policies in Iraq and KRI

The failure to dedicate reasonable share of the national and regional budget to health:

In the same cycle of UPR, stakeholders such as CEDAW were 'concerned about low budgetary allocations to the health sector'[4]. Five years since the second UPR cycle, those concerns remain valid and even more worrying. Iraq, now a high middle-income country, continued to dedicate a small proportion of its expanding budget to health. Over the last five year, the country only offered around 5% of its budget to the health sector. On the other hand, an increasing share of the Gross Domestic Product (GDP) of the country has been going to health expenditure. With the Government of Iraq (GoI) refusing to provide more public resources to the healthcare, the people of the country are forced to shoulder the responsibility for health spending. Out-of-pocket spending (OOPS) constitutes the major source of health spending in Iraq now.

Recommendation 2:

- Increase the share of health in the Iraqi and KRI budget to at least 10% of the national and regional budget

[1] https://www.refworld.org/pdfid/454f50804.pdf
[2] http://www.iqilaw.com/draft-constitution-of-the-iraqi-kurdistan-region/
[3] https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/143/54/PDF/G1414354.pdf?OpenElement
[4] https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/140/16/PDF/G1414016.pdf?OpenElement

Undermining the concept of Universal Health Coverage:

The people of Iraq pay OOPS for three main types of services.

First, the private market in Iraq is rapidly expanding. The private health sector is growing to an extent that is almost replacing the public sector. This growth occurred as a result of a formal policy of the GoI and the Kurdistan Regional Government (GoI) to transform the country a market-based rather than a state run economy. Although such economic policy had been associated to notable positive developments, it however resulted in considerable social disturbances that are clearly felt in relation to the health and wellbeing of the Iraqi people. This is particularly true because of the lack of preparedness for the rapidly expanding private sector. For example, there are no social protection frameworks in place to ensure that Iraqis are not impoverished as a result of soaring healthcare costs in the private sector. Furthermore, the private health market remains largely unregulated with the significant opportunities for fraud and smuggling of counterfeit medications for example. People in Iraq and its Kurdistan region are forced to sell properties, borrow money, forgo expenditure on other important areas of their lives, and even sometimes not eat to save money to buy healthcare. Due to the lack of trust in the private sector and healthcare in general, people are obliged nowadays to make expensive trips as part of what is called 'health truism' to other countries such as Turkey, Jordan, Lebanon and India where healthcare is perceived to be higher in quality.

Despite spending large sums of money on private healthcare, the quality of private health services are not improving. For example, patients are still seen in groups in private doctors' clinic in Iraq and KRI. The lack of privacy in private doctors' clinic remains a major concern for patients and human right groups. There are many instances were four to five patients and their accompanying family members are seen in the same room at the same time. Most private doctors' clinic do not adopt a clear appointment system. Patients and their families can show up in those clinics without a prior appointment in most case.

Recommendation 3:

- Introduce social health insurance programs to decrease the chances of catastrophic health expenditure.
- Introduce the concept of Universal Health Coverage (UHC) in health policies in Iraq and KRI.

Unregulated privatization of the public sector:

Another way that people of Iraq and KRI are paying out of pocket for health services is through what a recently introduced policy of 'semi-private'[5]. According to a decision by the Ministry of Health (MoH) of Kurdistan Regional Government (KRG) patient had to pay private market prices for services that were provided in public facilities. The MoH limited the public provision of services to only limited hours in the mornings. In the afternoon, the hospital and other facilities provided services at prices.

The authorities cited a number of reasons for their market decision to introduce the semi-private system. That policy was introduced around 2014 where a number of developments resulted in a significant decrease in public resources. Oil prices sharply declined. Iraq and the KRG entered an

[5] https://ekurd.net/mismas/articles/misc2012/11/state6645.htm

unstable phase of their relationship triggered by plans to conduct a referendum on the independence of the KRI from the rest of the country. It was the time when the conflict related to the Islamic State in Iraq and Syria (ISIS) resulted in the displacement of thousands of people from Mosul to KRI.

Whatever the reasons, the semi-private system is regarded by many as a clear violation of the Iraqi constitution and the draft constitution of KRI. The policy lacked any legal bases and it was a clear abuse of authority by KRI's MoH. Patients now had to pay money both in the private sector as well as the public sector. Doctors and other providers started abusing the system by shortening the time they spent in the publically funded practice of the mornings. For example, official working hours were shortened to 8 am to 1 pm only. After 1 pm the semi-private system came into function.

The 'semi-private' system is a manifestation of the mixing of the public and private health sectors in KRI and Iraq. Doctors and nurses are allowed to work at the same time in the private and public sector. This dual practice is causing significant damage to the public sector.

Recommendation 4:

- End the 'semi-private' system in KRI.
- Increase the salaries of doctors, nurses and other health workers so that they are not obliged to limit the time they spent in the public health sector.
- End the dual practice in KRI and Iraq

Private payment in the public sector:

Finally, patients are sometimes are obliged to pay-out-of-pocket to receive services in the public sector. For example, there are examples when the medicines that doctors prescribe are not available in the public sector and they are asked to buy those medicines in the private market. In some cases, patients and their families have to pay money to expedite tests and other treatments in the public sector. Those payments are not formal and are made to persons that usually do not report the sum of money they received and for which services they levied them.

Recommendation 5:

- End obliging patients and their families to pay out of pocket for services that are provided in the public sector.

The abuse of voluntary donations to health:

As alluded to above, a financial crisis hit the KRI and Iraq around 2004. A sharp fall in oil prices was combined with the ISIS-related conflict. The authorities in KRI were not able to provide the financial resources to run public hospitals and other health facilities. as a result, patients were not able to receive health services including essential medications. People tried to overcome those difficulties through collecting donations to pay for the most urgent needs of patients. For example, a voluntary scheme was set up to collect donations to purchase medicines for cancer patients. Donations were collected from patients' families, businesspersons, business and other charities. The running of the scheme was under the authority of the MoH. After few months from setting up the scheme, its funds disappeared. The Minister of Health was questioned by the media, civil society and the parliament about the lack of funds from the scheme to pay for medicines for cancer patients.

It turned out that the MoH used those resources to pay the salaries of doctors and other healthcare workers. The behaviour of the MoH became the sources of anger towards the authorities and resulted in the lack of trust. Many of the individuals and bodies that donated money stopped doing so.

Recommendation 6:

- Dedicate a percentage of the national and regional budget to services provided to cancer patients.
- Establish an independent body to manage the funds that are provided by charities, individuals and businesses to healthcare.

Decreasing civil servants salaries in the health sector:

Since 2014, the KRG was unable to pay healthcare workers' salaries in full. The KRG introduced what became known as 'quarter salary' system. According to that policy, civil servants are paid only a quarter of their salaries. The KRG claims that it is 'saving' the reminder of civil servants' salaries and will pay them back once the financial crisis is over. The KRG has recently announced the end of that policy and it paid civil servants (including doctors and other healthcare workers) their full salaries for the first time in February 2019. However, it is not clear yet whether the KRG is going to fulfil its promise and repay civil servants the reminder of the 'saved' salaries.

The 'quarter salary' system resulted in significant harm to healthcare workers. It undermined the commitment of the health workforce to public service. Doctors and other healthcare workers were allowed to significantly decrease the length of time they spent in public practice. As a result, patients who were using the public services suffered as well. The 'quarter salary' system also resulted in discontent and anger among the health workforce. Since 2014, civil servants engaged in numerous waves of demonstrations, boycott and other civil ways of demanding their rights. Hospitals, primary healthcare centres and other institutions were disabled for considerable length of time as a result of boycott by doctors, nurses and allied health workers. For the first time ever, doctors and nurses decided to boycott work even in emergency departments. In all previous demonstrations by the health workforce, emergency departments were never included.

Recommendation 7:

- End the 'quarter salary' system and repay the 'saved' salaries of the civil servants.
- Increase the salaries of doctors and other health workers in KRI and Iraq.

Violation of the right of demonstration and assembly in the health sector:

The response of the authorities towards boycott and demonstrations by was apathy at best and physical attacks and psychological abuse at worst. Several of the leaders of the demonstrations were physically attacked. Some were fired from their posts in the public sector. Others were harassed and pressured to stop the boycott. One notable example is the case of Dr Shayan Askary. Dr Askary is a female oncologist who led her colleagues in demonstrations against the 'quarter salary' system. In a demonstration in Erbil, the capital of KRI, she was physically attacked and verbally abused by the security forces. She was later fired from her job as an oncologist. There was a public outcry against the abuse towards Dr Askary and there was considerable sympathy toward her efforts defending the rights of patients and her colleagues. She went on to become a member of the Parliament of Kurdistan and she is currently the deputy head of the health committee of the Parliament.

Recommendation 8:

- End the harassment and violation of the freedom of expression against health workers in KRI.

Pollicisation of the health sector:

Although the right to health is increasingly becoming a political case where political parties and politicians are politicians are highlighting, it is primarily the result of politicizing healthcare. The two political parties in KRI, Kurdistan Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK) are interfering significantly in the running of the healthcare system. All major management positions in the health system are determined based on political affiliations rather than merit. This includes the minister of health, directors of health, managers of hospitals and other major health institutions. The party share of leadership positions in the MoH are determined based on the percentage of votes that each party receives. Although this seems as a simple and straightforward formula, difficulties and delays result when parties are demanding more than their shares or engage in negotiations on which leadership position they should assume. For example, the last parliamentary elections happened in September 2018 in KRI. Unfortunately, the wining political parties failed so far to establish a government. This delay resulted in lack of clarity in terms of the next government's policy with regards to health. It also resulted in confusions among the health workforce. More importantly, patients and their families suffer as a result of the absence of clear leadership at the MoH's level. Also, there is significant gender disparity in the leadership of the health sector. All of the leaders of the health system are men. There was no female minister of health, director of health or even manager of hospital in KRI.

Recommendation 9:

- End political interference in the health sector.
- Promote merit-based selection of leaders in healthcare.
- Encourage female leaders in the health system and allow women to assume leadership positions in the system.

Political interference and abuse of political power:

More worryingly, prominent politicians started abusing their power within the health system for personal and private gains. There are credible reports that disclose the fact that many politicians have established private health companies that trade medicines, technologies and other health-related goods in KRI. Those politicians use the power of the politically affiliated leaders in the MoH as a leverage for their personal financial gains.

The case of the PAR hospital in Erbil is notable in this regard. PAR is named after three sons of Kosrat Rasul Ali, the deputy secretary general of the PUK. The name is composed of the initials of those three sons who died in accidents and military conflicts. Kosrat Rasul was able to secure the land for building the hospital from the KRG for free. He claimed that he was going to build the hospital to offer healthcare to the victims of the Anfal and Halabja genocide and their families with no charge. He also received a sum of 5 million USD to build the hospital from the KRG. After finishing the hospital, it became one of the most expensive private hospitals in KRI. A director general within the MoH in the KRG is at the same time the head of the governing board of PAR hospital. This director general (Dr Dara Rashid) is making sure that the MoH refers cases to PAR

hospital. For example, all of the tests that are done for foreigners who visit KRI has to be done at PAR hospital. Dr Dara Rashid is now a leading candidate for the post of the Minister of Health in the new KRG cabinet. Many believe that the fact Dr Rashid is considered for the post is a result of his service to Kosrat Rasul's businesses in the health sector.

Recommendation 10:

- End the abuse of political authority for private and personal gains in the health sector in Iraq and KRI.

Corruption in constructing health infrastructure:

Such examples of conflict of interest and corruption are undermining services to patients. They result in significant delays and at times failures in the completion of publically funded projects. The case of the 400 bed hospital in Slemany is illuminating[6]. Work in the hospital began in 1996 as part of the UN's oil-for-food program. It was completed only in 2013 and became what is known now as Shar hospital. A campaign by a group called 'the 400 group' that demanded finishing the building of the hospital, disclosed significant corruption in the process. According to the group a total of 22 million USD was wasted to corruption. Those who were involved in this corruption were local, regional and international individuals and companies. A former Minister of Health and the Head of the Investment Committee of the KRG agreed to offer the construction of the hospital to a South Korean company (UI enc) under suspicious circumstances and without the lawful and normal tender procedures1. Once those contracts were signed, the former Prime Minister of the KRG/ Sulaimani, issued secret orders to spend millions of dollars from the funds dedicated to the hospital. Millions more were spent on medical instruments that were never purchased. Evidence show that public officials, doctors and nurses affiliated with the political establishment in Kurdistan used the resources allocated to the hospital to fund lavish trips to South Korea. These were done under the excuse of organizing scientific exchanges and trainings on instruments for the hospital.

The ability of public officials at the KRG to abuse the resources allocated to the hospital was not to happen without the 'special relationships' between UI enc and the KRG[7]. Photo evidence demonstrates such a special relationship. Officers of the UI enc were lucky enough to meet with the President of Iraq, the Deputy Secretary of the Patriotic Union of Kurdistan (PUK) and the current Prime Minister. Big ceremonies were organized to sign memoranda of understandings and contracts with the Prime Minister Himself. Large luncheons were offered to officers of the UI enc at the private homes of the former Minister of Health. These, it appears, were not only helped by the involvement of South Korean troops in Operation Iraqi Freedom of 2003, but by fact that a former Member of the US Congress was a part of the Advisory Board of UI enc.

The scandalous delay in finishing the hospital and the leakage of evidence about corruption and abuse of public resources, motivated non-governmental organizations (NGOs) and civil society activists to organize campaigns to demand finishing the hospital and exposing the corrupt behaviour of senior politicians and public figures. The Federation of Civil Society Organizations took the lead in those campaigns and established the "400 group" (the 400 refers to the number of the beds of the

[6] http://www.koreatimes.co.kr/www/news/nation/2015/10/116_141867.html

[7] http://www.koreatimes.co.kr/www/common/printpreview.asp?categoryCode=116&newsIdx=137856

hospital). Since 2010, the 400 group organized petitions in which thousands of residents of the city of Sulaimani demanded the authorities to restart working on the project and expose the acts of corruption involved. The group paid visits to the Sulaimani office of the Parliament of Kurdistan and delivered those petitions. It organized demonstrations and public gatherings in front of the hospital. It also wrote a report to the Public Persecution in Kurdistan detailing all the evidence pertaining to corruption and abuse. It finally sent letters to each of the Consulate of South Korea in Erbil/Kurdistan and the US embassy in Baghdad demanding clarification about the potential involvement of a UI enc (The Korean Company) and a former Member of Congress in corruption in the region.

Despite the success of the 400 group in forcing the authorities in the KRG to restart working on the project, the group is yet to hear from the South Korean consulate or the US embassy. The Korean Consulate, in particular, failed to respond to an official letter from the Federation of Civil Society Organization and the 400 group. It failed to answer and respond to numerous phone calls and emails by members of the group. The simple questions that the 400 group demand answers to are:

- What is the opinion of the South Korean government on the fact that a South Korean company is convicted of corruption in Kurdistan and is charged with US$22 million in compensation for not finishing the hospital?
- Was it the fault of UI enc that the hospital was not finished on time and resources were abused, or was it politicians in the KRG who pushed the company to behave inappropriately?
- Why did UI enc fail to appear before the court in Kurdistan and is it going to pay the penalty determined by the court?

Recommendation 11:

- Introduce more transparency in the construction of health infrastructures

The failure of the South Korean authorities to respond to those questions raises scepticism about their role in the 2003 Iraq war2. If South Korean companies and authorities were actively involved in acts of corruption in Kurdistan or for that matter were complacent about corrupt behaviour by Kurdish politicians, then this will send the wrong message about the sincerity of arguments about advancing democracy in Kurdistan, Iraq and the wider Middle East. After all, it is the rule of law, transparency and accountability that helps democracies succeed. South Korea is not helping Kurdistan to achieve those objectives.

Regulating the private health market:

There is a significant conflict of interest in the work of doctors and nurses in Iraq and Kurdistan. Doctors' Syndicate regular the private market in the health sector. Doctors are able to determine the fees that they levy in the private market. This is happening without any oversight from the government or the parliament. For example, a previous minister of health decided to 'unify' the fees that doctors charge in their clinic in the private market. Dr Tahir Hawrami the minister of health decided to increase the fees that doctors charge in Slemany to make it similar to Erbil. This minister was previously the head of the doctors syndicate in Kurdistan. This decision was perceived as a

considerable conflict of interest. A civil society activist protested against this decision. The activist was sued by the minister of health to pay 200,000,000 Iraqi dinar as a charge against 'defaming' the ministry for that.

Recommendation 12:

- The MoH should have the authority of regulating the private market rather than the doctors' syndicate
- End dual practice in the health sector in KRI

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