AI V16

Upper Tribunal
(Immigration and Asylum Chamber)

HM and others (Article 15(c)) Iraq CG [2012] UKUT 00409(IAC)

THE IMMIGRATION ACTS

Heard at Field House	**Determination Promulgated**
On 30 April, 1-4 May and 12 October 2012	……

Before

MR JUSTICE COLLINS
UPPER TRIBUNAL JUDGE STOREY
UPPER TRIBUNAL JUDGE ALLEN

Between

HM
RM
HF

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr M Fordham QC, Ms S Naik and Ms B Poyner, instructed by Sutovic & Hartigan in respect of the first two appellants and Mr M

	Fordham QC and Mr T Hussain, instructed by Parker Rhodes Hickmott Solicitors in the case of the third appellant
For the Respondent:	Mr C Staker and Mr D Blundell, instructed by the Treasury Solicitor

A. Law

a) *The guidance as to the law relating to Article 15(c) of the Refugee Qualification Directive 2004/83/EC given by the Tribunal in HM and Others (Article 15(c)) Iraq CG [2010] UKUT 331 (IAC) ("HM1") at [62]-[78] is reaffirmed. Of particular importance is the observation in HM1 that decision-makers ensure that following Elgafaji, Case C-465/07; [2009] EUEC] and QD (Iraq) [2009] EWCA Civ 620, in situations of armed conflict in which civilians are affected by the fighting, the approach to assessment of the level of risk of indiscriminate violence must be an inclusive one, subject only to the need for there to be a sufficient causal nexus between the violence and the conflict.*

b) *Given that country guidance cases may have an impact on a large number of asylum cases and appeals, their significance in saving costs in future cases, quite apart from their general importance, should require consideration of the grant of legal aid for representation in the public interest.*

c) *Whilst the Upper Tribunal will do all it can to ensure representation in a country guidance case, it cannot be excluded that in highly unusual circumstances such a case would proceed without claimant representation.*

d) *Though very considerable weight is almost always to be attached to UNHCR guidelines on risk categories in particular countries, it is not accepted that departure from the guidelines should only take place for a cogent and identified reason. Cases are to be decided on the basis of all the evidence and arguments presented to the Tribunal.*

B. Country guidance

i. *Whilst the focus of the present decision is the current situation in Iraq, nothing in the further evidence now available indicates that the conclusions that the Tribunal in HM1 reached about country conditions in Iraq were wrong.*

ii. *As regards the current situation, the evidence does not establish that the degree of indiscriminate violence characterising the current armed conflict taking place in the five central governorates in Iraq, namely Baghdad, Diyala, Tameen (Kirkuk), Ninewah, Salah Al-Din, is at such a high level that substantial grounds have been shown for believing that any civilian returned there would solely on account of his presence there face a real risk of being subject to that threat.*

iii. *Nor does the evidence establish that there is a real risk of serious harm under Article 15(c) for civilians who are Sunni or Shi'a or Kurds or have former Ba'ath Party connections: these characteristics do not in themselves amount to "enhanced risk categories" under Article 15(c)'s "sliding scale" (see [39] of Elgafaji).*

iv. *Further evidence that has become available since the Tribunal heard MK (documents - relocation) Iraq CG [2012] UKUT 126 (IAC) does not warrant any departure from its*

conclusions on internal relocation alternatives in the KRG or in central or southern Iraq save that the evidence is now sufficient to establish the existence of a Central Archive maintained by the Iraqi authorities retaining civil identity records on microfiche, which provides a further way in which a person can identify themselves and obtain a copy of their CSID, whether from abroad or within Iraq.

v. Regarding the issue of whether there would be a risk of treatment contrary to Article 3 ECHR arising from returns from the UK to Baghdad International Airport (BIAP):

a. If a national of Iraq who has failed to establish that conditions inside Iraq are unsafe is compulsorily returned to Baghdad International Airport (BIAP) on either a current or expired Iraqi passport, there is no real risk of detention in the course of BIAP procedures (except possibly in respect of those who are the subject of a judicial order or arrest warrant). Nor is there such a risk if such a person chooses to make a voluntary return with a laissez passer document which can be issued by the Iraqi embassy in the UK.

b. If, however, such a person is compulsorily returned to BIAP without either a current or expired Iraqi passport, he may be at risk of detention in the course of BIAP procedures and it cannot be excluded that the detention conditions might give rise to a real risk of treatment contrary to Article 3 ECHR. Such a risk is however, purely academic in the UK context because under the current UK returns policy there will be no compulsory return of persons lacking such documents.

TABLE OF CONTENTS

DETERMINATION AND REASONS

1. All three members of the tribunal hearing these appeals have contributed to this determination. At the end there is a glossary of terms so as to help readers follow the various acronyms.

2. This is a country guidance (CG) case which is concerned to decide whether Article 15(c) of Council Directive 2004/83/EC (the Qualification Directive[1]) prevents removal of Iraqi nationals who have no particular reason to be at real risk of persecution within the meaning of the Refugee Convention or of treatment which requires them to be accorded humanitarian protection under Article 15(a) or 15(b) of the same directive. The three appellants are young men whose accounts, which sought to establish that they would be at risk on return, were rejected. In each case, the immigration judge who heard their appeals did not believe their account. In the case of HM and RM, whose appeals were heard together, the judge found their accounts to be 'deeply implausible'. In HF's case, the judge decided that his account was not credible. In the result, each appellant is to be regarded as a young man who has no distinguishing characteristics other than (1) his place of residence in Iraq; (2) in the case of HM and RM, his Kurdish ethnic origin; and (3) in the case of HF, his identity as a Sunni Muslim Arab and possible indirect links with the Ba'ath Party.

3. The appeals of RM and HM were heard by an immigration judge in June 2008. The appeal of HF was heard by an immigration judge in June 2009. It will be necessary to refer to the procedural history to explain the unfortunate delay in dealing with these appeals. That delay is even more unfortunate since there has been a difference of view among EU Member States on whether return to Iraq or certain parts of Iraq is possible and certain aspects of this question are pending before the European Court of Human Rights (ECtHR) in the case of *YA v UK* (see below [80]) who have said they will postpone a decision until they have seen our determination. The result of the delay has been to create legal uncertainty as to the proper disposal of a very significant number of cases involving Iraqis who fall into the same category as these appellants.

HM1

4. The appeals of HM and RM together with two other appellants ASA and AA were chosen as CG cases to determine the Article 15(c) issue. They came before the Tribunal constituted by the President, Blake J, sitting with Upper Tribunal Judges Storey and Allen on 8 June 2010, having been fixed for 7 June 2010. A report from an expert, a Dr Herring, had been obtained by Refugee and Migrant Justice (RMJ) who

[1] From 21 December 2013 this directive is replaced by Directive 2011/95/EU of 13 December 2011; but by recital 50 the UK and Ireland are not taking part in its adoption. In any event, Article 15(c) is unaffected by these changes.

were then acting for HM and RM. It seems that that report was not obtained until the end of May. In any event, on 1 June 2010 Wilson & Co, who were acting on behalf of AA, indicated to the tribunal that in the light of Dr Herring's report, they could no longer continue to act on his behalf. On the same day RMJ indicated that they were no longer instructed by their clients. When the case was called on 8 June 2010, counsel appeared for the solicitors stating that instructions were withdrawn. HM and RM attended later in the day and said they wished for their appeals to go ahead and to be represented by RMJ.

5. The Tribunal for the reasons given in [36 – 39] of its decision, *HM and Others (Article 15(c)) Iraq CG* [2010] UKUT 331 (IAC) (hereafter "*HM1*"), indicated that in the circumstances it was unwilling to accede to the request for the appeals to be withdrawn. There was, it was said, an overriding public interest in proceeding to determine them. ASA had not applied for his appeal to be withdrawn, but he was not represented. UNCHR had been permitted to intervene and so to participate in the proceedings and had submitted detailed written grounds putting forward its view that compulsory returns should not occur because of the application of Article 15(c).

6. The Tribunal found itself facing a real dilemma. Country guidance on the application of Article 15(c) application in Iraq was required as soon as practicably possible since the ECtHR and many other cases were awaiting it. Time and money had been spent preparing for the appeals and the delay, waste of money and problems which would result in endeavouring to find suitable appeals in which appellants were represented were obvious. In [47] of its decision, the Tribunal indicated why it decided that the appeals should proceed. It said this:-

> "…We had the benefit of a detailed skeleton argument from the respondent, although it did not bear a burden of establishing a negative in this case, and it had been sensibly anticipated that its skeleton argument should address the appellants' case rather than deal with protection issues entirely in the abstract. The hearing took the form of an elaboration of aspects of the written arguments by reference to the factual materials, a formal response to the written submissions of the UNHCR, and response to questions put by members of the Tribunal as to various matters of law, fact and the practicalities of the intended return to Iraq. At the end of the hearing, some information remained outstanding or subject to confirmation in writing. We asked that it be provided within 14 days, RM and HM indicated they would like to receive a copy of this further information and we directed that it should be sent to them. Whilst our decision was under consideration further information relating to the return of failed asylum seekers to Iraq came to our attention and we asked for further information from UNHCR and from the respondent, the appellants again being copied in. This was provided to us in accordance with the time limits set and is considered below. We are again grateful to all those who assisted us."

7. In due course, the Tribunal decided that enforced returns could take place because the degree of indiscriminate violence did not reach such a high level in any part of Iraq as to show substantial grounds for believing that any civilian returned there would face a real risk within the meaning of Article 15(c) and further, even if such a

risk had been shown to exist in some areas of Iraq, internal relocation would achieve safety and would not in all the circumstances be unduly harsh.

HM2

8. HM and RM appealed this decision. The appeal was brought on procedural and substantive grounds, but the Court did not find it necessary to deal with any of the substantive grounds since it allowed the appeal on procedural grounds. In its judgment *HM (Iraq)* [2011] EWCA Civ 1536 (hereafter "*HM2*"), the Court quashed the determination and remitted the case to the Tribunal. Most unfortunately, the decision of the Court of Appeal was not given until 15 December 2011. It was then necessary to ensure that there were appeals which could represent the proper scope of the Article 15(c) issue and that all relevant material was available. Following three days of hearing in April/May, it was decided to reconvene for further submissions in October 2012, primarily to ensure that the Tribunal had full argument on the new UNHCR Guidelines (UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers From Iraq, 31 May 2012 (hereafter "UNHCR Guidelines"), which had become available in early June 2012 The appellants were properly represented before us under legal aid and there were very experienced counsel and solicitors on both sides. In addition, we had written representations from the UNHCR. The appellants produced reports from two experts, who have given evidence before the Tribunal in other cases involving Iraq, Drs Alan George and Rebwar Fatah. Each gave oral evidence before us and we are grateful for their assistance which we found most helpful.

Country guidance cases and representation

9. The main argument raised before the Court of Appeal in *HM2* was that there must be, as Mr Fordham Q.C. put it, "a proper contradictor", as the authoritative status of a CG case was akin to a declaration given by a court. While the Court did not accept Mr Fordham's contention that as a matter of legal principle there had to be a proper contradictor in a CG case, it accepted his alternative submission that the Tribunal erred in the exercise of its discretion in proceeding with the particular country guidance determination without adequate consideration of whether proper argument could be secured (see [49] of Richards LJ's judgment).

10. The Court's view was that there were steps which the Tribunal could have taken but did not take in trying to secure that proper argument on the appellants' behalf might be secured.

11. The first suggestion was that UNHCR might be willing to participate beyond written submissions. However, in a letter to the Tribunal dated 5 March 2012 UNCHR has made it clear that it would not, even in the exceptional circumstances such as existed, be prepared to represent an appellant directly since that could compromise its objectivity in future cases in which it was involved and was willing to intervene.

12. The second possibility suggested was to invite the Attorney General to appoint an amicus curiae. An amicus is not normally instructed 'to lead evidence, cross-

examine witnesses or investigate the facts' – see the Memorandum from the Lord Chief Justice and the Attorney General set out in Volume 1 of the White Book at pp.1144-1148. In the light of this, it is difficult to see how in a case such as this, which involves close examination of expert witnesses and very detailed fact-finding, that an amicus could properly be provided. In a letter dated 7 March 2012, the Attorney General's reaction to a question from the Tribunal whether in the light of Richards LJ's judgment an amicus would be likely to be provided has been decidedly lukewarm since he has said he would, as is entirely proper, follow the terms of the memorandum.

13. The Legal Services Commission (LSC) was asked whether funding could be supplied in circumstances such as arose in *HM1*. Its response as set out in a letter of 8 February 2012 has been negative. The LSC has explained that it can take the wider public interest into account in determining an application for funding, but, in accordance with s.4 of the Access to Justice Act 1988, it must act to secure that individuals have access to services that effectively meet their needs. Thus it is said that if an applicant's representative certifies that prospects of success are poor rather than simply borderline, the LSC would have no discretion other than to refuse to fund the case.

14. It is necessary to take stock. Inquiries made of UNHCR and the Attorney General have made clear that the Tribunal cannot look to either of them to assist with missing representation. The inquiry of the LSC made clear that its statutory remit affords it no discretion to assist with the funding of a case where prospects of success are poor. We are aware that the abolition of the LSC forms part of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which vests powers and functions to the Lord Chancellor for the administration of legal aid and the creation of a new Executive Agency within the Ministry of Justice. The Court of Appeal has indicated that it is important that a claimant is represented in a CG case so that proper argument can be deployed. This encompasses in addition to argument on law the 'drawing of relevant materials to the attention of the tribunal and the making of submissions as to the effect of those materials so that the determination is based on as full and informed an analysis as possible. In the ordinary course that is achieved through both sides being legally represented': see per Richards LJ at [39]. In [42] of his judgment, Richards LJ said this:

> "The features of the legal aid system which precluded the continuation of public funding before the tribunal are deeply regrettable, all the more so when it is borne in mind that public funding was granted for the appeal to this court and the overall costs to public funds will have been far greater than if funding had been continued at the time for the proceedings before the tribunal."

15. CG cases are needed because a particular issue may be or is likely to arise in other cases and the determination will save the need to consider the issue and so waste time and money in subsequent cases. The issue is often contentious, as this one is, and so it can rarely if ever be said that the outcome is likely to be obvious. It is necessary to ensure that all relevant material is properly considered. In this case, having regard in particular to UNHCR's position and the possible contrary views of

some other EU States, the Home Office's contention might well not have prevailed and so on its facts there appeared to be an arguable case on behalf of the appellants. But whether or not that was so, we would urge the government to recognise that CG cases are chosen with care and that their importance in saving costs in future cases, quite apart from their general importance, makes the grant of representation in the public interest highly desirable irrespective of the view formally taken of the appellant's/claimant's chances of establishing his or her need for international protection.

16. We have indicated the importance of CG cases and the care with which they are chosen. Their importance has been implicitly recognised by Parliament in the insertion of s.107(3) into the Nationality, Immigration and Asylum Act 2002 by s.26(7) of the Asylum and Immigration Act 2004. This enables the President to issue a Practice Direction which may require a specified decision of either level Tribunal to be treated as authoritative in respect of a particular matter. The relevant Practice Direction states that determinations of either Tribunal or of the AIT bearing the letters CG shall be treated as an authoritative finding on the CG issue identified in the determination, based on the evidence before the Tribunal which decided it. The Court of Appeal has stated that a failure to follow a CG decision would amount to an error of law unless there was a good reason for the failure (*R (Iran) v Secretary of State for the Home Department* [2005] EWCA Civ 982). Furthermore, the Tribunal's refusal to permit argument to be advanced to challenge a CG decision unless supported by fresh evidence has been upheld by the Court of Appeal (*Ariaya v Secretary of State for the Home Department* [2006] EWCA Civ 48).

17. Choice of appropriate cases which can constitute CG is a difficult and time consuming exercise. It requires the Tribunal to take into consideration all relevant evidence, usually consisting of country reports from various interested persons or bodies who have knowledge of the situation in the country in question. In addition, there will often be statements obtained from individuals who have a particular knowledge of and expertise in the country and who will gather together relevant reports and may be able to give evidence based on their own knowledge or experiences. These reports will usually be called on behalf of appellants and will give their opinion on whether return is in the circumstances safe.

18. It must be remembered that appeals are brought by individuals who claim that they are entitled to asylum or to humanitarian protection or human rights protection. Appeals in this jurisdiction are essentially an adversarial process and frequently depend on whether the appellant is believed to be giving an honest and accurate account. But it is of obvious importance that the situation in the country to which an appellant says he or she cannot return in safety should, so far as material to that particular appellant's characteristics, be known. If there is no CG case which covers an appellant, the Tribunal will have to decide for itself on such evidence as is available in the individual appeal whether safe return is possible. But the existence of a CG case will enable the Tribunal, unless there is evidence that the situation has changed since the CG case was decided, to avoid a time consuming need to decide whether the circumstances found to apply to the appellant mean that safe return is or

is not possible. As observed by the Court of Appeal in *SG (Iraq) v Secretary of State for the Home Department* [2012] EWCA Civ 940 (13 July 2012):

> "46. The system of Country Guidance determinations enables appropriate resources, in terms of the representations of the parties to the Country Guidance appeal, expert and factual evidence and the personnel and time of the Tribunal, to be applied to the determination of conditions in, and therefore the risks of return for persons such as the appellants in the Country Guidance appeal to, the country in question. The procedure is aimed at arriving at a reliable (in the sense of accurate) determination.
>
> 47. It is for these reasons, as well as the desirability of consistency, that decision makers and tribunal judges are required to take Country Guidance determination into account, and to follow them unless very strong grounds supported by cogent evidence, are adduced justifying their not doing so."

19. For these reasons country guidance cases have an importance beyond the determination of a particular appeal. They are one of the ways that a specialist Tribunal with judges with experience of the protection risks in various parts of the world and expert in the application of legal principles to a frequently shapeless and changing mass of country information, give effect to the over-riding objectives of rule 2(2) of the Tribunal Procedure (Upper Tribunal) Rules 2008. One of the aspects of the over-riding objective is that the parties are under a duty to co-operate with the Tribunal to achieve them: rule 2(4). Although the Upper Tribunal always hopes to have the assistance of well-informed advocates for both parties, and hopes that the legal aid scheme will take into account the public interest in advocates continuing to represent their clients where the prospects of success are at best borderline, there may be cases where the claimant ceases to be represented for one reason or another. Self-represented litigants are not a novel problem in the courts and the tribunals. There may be alternative sources of representation that the Tribunal can facilitate, but for the reasons already given it is unlikely that the sources envisaged by the Court of Appeal will be available in circumstances that were before the previous tribunal. In any event the public interest requires old guidance to be revoked and updated by new guidance reflecting contemporary conditions, whether one party is willing to continue to participate in the appeal or not. For the Tribunal to be unable to issue up to date guidance as intended because a party makes a tactical withdrawal in the light of their assessment of the prospects of success, would pose a severe threat to the whole system and frustrate the Tribunal's function. Hence, whilst the Upper Tribunal will do all it can to ensure representation in a country guidance case, it cannot be excluded that in highly unusual circumstances such a case would proceed without claimant representation.

20. Ordinarily a CG case will deal with relatively limited issues so as to identify whether persons with a significant political profile or ethnic or religious background are at risk. But in relation to some countries it is inevitable that the CG case considers very broad categories of persons and, as a consequence, has an impact on a large number of asylum claims and appeals. So it is that this case is to be a CG case on the issue whether Article 15(c) applies in effect to prevent any removal to Iraq. In *MK*

(documents-relocation) Iraq CG [2012] UKUT 00126 (IAC) the Tribunal has recently given guidance on whether individuals including women and children can safely relocate in Iraq and whether an individual was required to return to his or her home area in order to transfer or obtain documents and food rations. The Tribunal decided (see [88]) that lack of documentation was generally not an insuperable problem and not a factor likely to make return to any part of Iraq unsafe or unreasonable. As will be apparent in due course, this decision is material since it is accepted by both parties to these appeals (and is now accepted by UNHCR in its May 31, 2012 Guidelines) that Article 15(c) is not automatically applicable to the situation in every governorate of Iraq.

21. HM and RM together with two other appellants, known as ASA and AA, were chosen to constitute the CG appeals on the issue whether Article 15(c) applied to show a real risk of relevant harm on return to Iraq. The identification of the cases was made to the parties in October 2009. In accordance with its practice in CG cases, the Home Office produced such country material as was relevant amounting to three volumes. In addition, the UNCHR was invited to participate and produced written submissions together with two volumes of material which supported the appellants' contention that returns should not take place. As is we think obvious, the importance of CG cases cannot be underestimated since not only will they affect and probably be determinative of other cases within the UK but decisions of the ECtHR and the courts or tribunals of other EU member States may consider them to have persuasive value.

Inquisitorial role

22. We have said that an appeal before the Tribunal in this jurisdiction is essentially an adversarial process so far as the individual appellant is concerned. However, in deciding a CG issue the Tribunal must be sure so far as possible that it has considered all relevant material. Thus it must have an inquisitorial role. Neither Mr Staker nor Mr Fordham, Q.C disputed this. The Tribunal is sometimes able through its own library of material and research assistance to learn of relevant materials which it can then ask the parties to address. But it is essential that each party to a CG appeal produces all relevant material or evidence. Mr Staker on behalf of the Home Office recognised its obligation to put before the Tribunal material which did not necessarily support its case, particularly if it was aware of something which was not in the public domain.

23. Mr Fordham submitted that, albeit the Tribunal has an inquisitorial role in deciding a CG case, an appellant must be able to seek out, deal with and make submissions on the material which is available. Thus there must be representation. The Court of Appeal's decision points in the same direction, but it does not go so far as to indicate that the law requires representation. We have already given our reasons at [19] why we think the Court of Appeal was right not to lay down an absolute rule. In addition to the circumstances identified in that paragraph, we would note that, for example, representation cannot be forced on an unwilling appellant. And it must be borne in mind that what is needed is competent representation and, regrettably, the Tribunal's experience is that that does not always result. The Tribunal must, of

course, act fairly and so if some relevant evidence comes to its attention which the parties have not noted, it must draw it to their attention so that they can deal with it.

The CG issues

24. In case management directions the Tribunal said as follows:

> "The case will be a country guidance case on the following issues:
>
> (i) whether there is a risk to the appellants of indiscriminate violence arising from armed conflict within the meaning of Article 15(c) of the EU Qualification Directive in their home areas in Iraq (in the case of HM and RM Kirkuk and in HF Baghdad);
>
> (ii) apart from their age and gender it is envisaged that the other characteristics of the appellants that may be relevant to assessment of risk of indiscriminate harm are: they are all Sunni Muslims, they speak respectively Kurdish Sorani and Arabic (HF), and may be of Kurdish ethnicity;
>
> (iii) whether any of the appellants will suffer inhuman or degrading treatment contrary to Article 3 ECHR and/or Article 15(b) of the Qualification Directive on return to Baghdad Airport or any place connected with the process of return;
>
> (iv) if there is such a risk as in (i) above then whether internal relocation to any part of Iraq is available to them and whether they will be able to access such protection without suffering ill-treatment as per (iii) above. In so far as prospects of safe relocation are affected by the issue whether the appellants will be able to access necessary documentation in Iraq, the parties are informed that the Tribunal will have regard to the pending decision in *MK* (Iraq) where promulgation is imminent, whether or not this authority is reported as a country guidance case by the start of the hearing."

Geographical application

25. It is material that it is accepted that return to some governorates will not engage Article 15(c). That entails acceptance that it may be possible for individuals to live in such governorates. This may in many cases mean that even if we were persuaded that Article 15(c) applied in the five central governorates, Baghdad, Diyala, Tameen (Kirkuk), Ninewah, Salah Al-Din, returns could be made since there could be either returns to a safe home area or returns to an area of viable internal relocation. It is not to be assumed that the situation will remain static.

UNHCR materials

26. Much reliance has been placed by Mr Fordham on the views of the UNHCR and of an unspecified number of EU States that in the context of present-day Iraq or certain parts of it Article 15(c) does, or is likely to, prevent removal. We shall say more about these matters below but it may assist to clarify our concluded position at this stage. We will attach weight to those views and consider carefully the reasons given for them. But we have to make our minds up based on the full and detailed material put

before us. We pay great respect to the views of UNHCR in particular, whose sources include not only widely available background data but also feedback from UNHCR operations, UN agencies and other partners in Iraq. At the same time we cannot ignore the fact that UNHCR is a major international actor in Iraq, being heavily involved, inter alia, in programmes to assist returns to Iraq by externally displaced persons (EDPs) among others. We are not in a position to say whether UNHCR's role in Iraq means that its assessment of risk on return is influenced by its concerns about the viability of returning refugee flows. Nor are we in a position to know why, at least prior to 31 May 2012, UNHCR felt able to say on the one hand that no one from the 5 central governorates should be forcibly returned to Iraq because of high levels of indiscriminate violence there, yet on the other hand to engage in UNHCR-facilitated voluntary returns to Iraq, including to those governorates. We know from the ECtHR case of *FH v Sweden* App.no.3261/06 (see below at [80]) that on two occasions in 2007/8 (December 2007 and February 2008) UNHCR stated that it did not support any returns to Iraq. What these factors do demonstrate to us, however, is that we must make our own assessment of Article 15(c) risks based on the evidence as a whole and the UNHCR materials are only a part of that evidence.

27. So far as alleged risk of maltreatment by detention of returnees at Baghdad International Airport (BIAP) is concerned, the appellants must show that there are substantial grounds for believing that there is a real risk that those returning will be treated in such a way as breaches their human rights. It is the respondent's contention that they are unable to surmount this hurdle.

28. At the April/May hearings Mr Fordham submitted that there was evidence which showed that there was a real risk that those who were subject to compulsory returns would be detained on arrival at BIAP. The conditions of such detention were so unpleasant as to breach Article 3 of the ECHR. While such detention would usually not be lengthy, the conditions were such that even a short period of detention would breach Article 3. It seemed that much might turn on whether those removed had proper paperwork which could be provided by the Iraq Embassy in London. Since this was a general, albeit discrete, issue which would potentially apply to all who might be removed, it seemed desirable that we should deal with it at the same time as the Article 15(c) issue. However, there was a need for further evidence and so we gave time to enable that to be produced and further argument (if that was considered necessary) to be produced. We also heard further oral submissions on this matter on October 12.

Presentation of evidence

29. Before turning to the law and to the facts, we should mention that we discussed with the parties in the course of the hearing the practical problems arising from the unprecedented volume of materials adduced. Produced for each member of the panel was a large number of lever arch files of documents which ran to thousands of pages.

30. We saw the necessity for one copy of all source material but found that for the hearing itself each of us was able to work with the equivalent of one A4 ring binder

containing materials which the parties had extracted from the larger set of files as being the most relevant.

LEGAL FRAMEWORK

The law relating to Article 15(c)

31. The Tribunal in *HM1* considered the correct approach in law to Article 15(c) in some detail in [62] to [98]. The only matter raised by Mr Fordham has related to the extent to which there should be a discounting of the overall figures of deaths by bombings or shootings, whether specific or general. Otherwise, he has not criticised the approach set out in some detail by the Tribunal. We must, of course, set out and explain our approach in law, but in the circumstances we see no need to repeat in great detail what the Tribunal said in *HM1.* For those who wish to consider more detail than we consider it necessary to spell out in this determination, we can say that we adopt what was said in *HM1.*

32. We have been referred to a number of authorities dealing with interpretation and application of Article 15(c). However, there are two which bind us, namely *Elgafaji v Straatsscretaris van Justitie* [2009] 1 WLR 2100, a decision of the Court of Justice of the European Communities (ECJ, now known as the Court of Justice of the European Union or CJEU)) and *QD (Iraq) v Secretary of State for the Home Departmen*t [2011] 1 WLR 689, a decision of the Court of Appeal. Each of these is binding on us and *QD* helpfully explains and indicates how *Elgafaji* should be applied.

33. Article 15(c) itself provides as follows, under the heading 'Serious Harm':-

> "Serious harm consist of
>
> (a) death penalty or execution;
>
> (b) torture or inhuman or degrading treatment or punishment of an Applicant in the country of origin; and
>
> (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict."

34. Article 15 is applied by Article 2(e) which defines a person eligible for subsidiary protection (a term which has been described as humanitarian protection in paragraph 339C of the Immigration Rules which applies Article 15 using the same terminology save for the addition of 'unlawful killing') thus, so far as material:

> "… a third country national … person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for disbelieving that the person concerned, if returned to his or her country of origin … would face a real risk of suffering serious harm as defined in Article 15 … and is unable or, owing to such risk, unable to avail himself or herself of the protection of the country."

35. It is necessary in construing Article 15(c) to have regard to recital (26) of the preamble to the Directive which provides:

> "Risks to which a population of a country or a section of the population is generally exposed do normally not create in themselves an individual threat which would qualify as serious harm."

36. These provisions are not well drafted, as Sedley LJ observed in [19] of *QD*. As Advocate General Maduro points out in his opinion in *Elgafaji* Case C-465/07 ([31]) the use of the words 'indiscriminate' and 'individual' in Article 15(c) requires an attempt to reconcile what seems prima facie irreconcilable. But this is not the only difficulty. The others are, first, the difficulty created by the definition in Article 15(c) which refers to a 'threat' coupled with the reference in Article 2(e) to a risk. One thus has the problem of applying a test which concerns a real risk of a threat. Secondly there is the reference to internal armed conflict. This latter problem was resolved in *QD* by an agreement of all counsel involved which the court accepted that it had an autonomous meaning which was "broad enough to capture any situation of indiscriminate violence, whether caused by one or more armed factions or by a state, which reaches the level described by the CJEU in *Elgafaji*" ([35]). That such an armed conflict existed in Iraq was accepted by the Home Secretary in *QD* and Mr Staker has not sought to argue the contrary before us. Sedley LJ went on in *QD* to observe that the armed conflict itself need not be exceptional, but that there must be an intensity of indiscriminate violence great enough to meet the test spelt out by the CJEU. That would not apply in every situation. Furthermore, a civilian must mean a genuine non-combatant. Anyone who involves himself in an armed conflict is not to be regarded as a civilian and the same applies to a member of the armed forces or police in the country in question.

37. So far as the risk of a threat is concerned, the Court of Appeal indicated that a pragmatic approach must be adopted. The grammar of Article 15(c) requires that the threat be serious. That is the natural reading of the words used and that it is the proper reading was confirmed by the Court in *QD.* It emphasises the point that the threat must result from indiscriminate acts of violence and the existence of such acts affecting the individual civilian must be shown to be a reality. As Sedley LJ observed in [21] of *QD*, not every threat is real and not every real threat is serious.

38. It seems clear to us that what lay behind Article 15(c) was the need to enable those who were likely to be caught up in indiscriminate violence and so to suffer death or injury to be able to obtain protection. They were to be contrasted with those who fell within 15(a) or (b) who could show a real risk of a breach of Articles 2 or 3. The reference to 'execution' in 15(a) we would read as intended to cover unlawful killing since it is incomprehensible that the Directive would deliberately have omitted the risk of death where there was no question of internal armed conflict. Thus it is not in the least surprising that in *Elgafaji* the ECJ should have regarded 15(c) as dealing with a more general risk of harm than that covered by 15(a) and (b).

39. The CJEU had to construe recital 26 of the preamble with Article 15(c). The two are not easy to reconcile. As the Court noted, the use of the word 'normally' in the

recital recognised the "possibility of an exceptional situation which would be characterised by such a high degree of risk that substantial grounds would be shown for believing that the person would be subject individually to the risk in question". ([37]). The Court went on in [38] to say that the exceptional nature of that situation was also confirmed by the fact that the relevant protection was subsidiary, and by the broad logic of Article 15, as the harm defined in paragraphs (a) and (b) of that Article required a high degree of individualisation. According to the Court at [39] of its ruling, it followed that "the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection." This is what UNHCR has referred to as the "sliding-scale" notion.

40. The Court there seems to be considering that a person who is at real risk of being either a specific or a more general target of indiscriminate violence may be accorded protection when the general level of violence would not be sufficient to establish the necessary risk to one who could not show any specific reason for being affected by violence unless it reached a high level. We are not in this case concerned to consider all those who are specifically affected by factors particular to their own personal circumstances, although we must address submissions that being a Sunni or Shi'a or an ethnic Kurd (or being a former Ba'athist) constitute characteristics which may in particular areas give rise to Article 15(c) risk under the "sliding-scale" identified by the Court in [39]. But, as will become apparent, we do not think that there is anything in this ethnicity or religious (or former Ba'athist) affiliation which will add to the risk of general harm.

41. The ruling by the Court in *Elgafaji* was in these terms:-

> …
>
> "37. While [recital 26 of Council Directive 2004/83/EC of 29 April 2004] implies that the objective finding alone of a risk linked to the general situation in a country is not, as a rule, sufficient to establish that the conditions set out in Article 15(c) of the Directive have been met in respect of a specific person, its wording nevertheless allows by the use of the word 'normally' for the possibility of an exceptional situation which would be characterised by such a high degree of risk that substantial grounds would be shown for believing that that person would be subject individually to the risk in question.
>
> 38. The exceptional nature of that situation is also confirmed by the fact that the relevant protection is subsidiary, and by the broad logic of Article 15 of the Directive, as the harm defined in paragraphs (a) and (b) of that article requires a clear degree of individualisation. While it is admittedly true that collective factors play a significant role in the application of Article 15(c) of the Directive, in that the person concerned belongs, like other people, to a circle of potential victims of indiscriminate violence in situations of international or internal armed conflict, it is nevertheless the case that that provision must be subject to a coherent interpretation in relation to the other two situations referred to in

Article 15 of the Directive and must, therefore, be interpreted by close reference to that individualisation.

39. In that regard, the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection.

…

43. Having regard to all of the foregoing considerations, the answer to the questions referred is that Article 15(c) of the Directive, in conjunction with Article 2(e) of the Directive, must be interpreted as meaning that:

the existence of a serious and individual threat to the life or person of an applicant for subsidiary protection is not subject to the condition that that applicant adduce evidence that he is specifically targeted by reason of factors particular to his personal circumstances;

the existence of such a threat can exceptionally be considered to be established where the degree of indiscriminate violence characterising the armed conflict taking place assessed by the competent national authorities before which an application for subsidiary protection is made, or by the courts of a Member State to which a decision refusing such an application is referred reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of his presence on the territory of that country or region, face a real risk of being subject to that threat."

42. We recognise that the threat to life or person of an individual need not come directly from armed conflict. It will suffice that the result of such conflict is a breakdown of law and order which has the effect of creating the necessary risk. It is obvious that the risk is most likely to result from indiscriminate bombings or shootings. These can properly be regarded as indiscriminate in the sense that, albeit they may have specific or general targets, they inevitably expose the ordinary civilian who happens to be at the scene to what has been described in argument as collateral damage. By specific targets, we refer to individuals or gatherings of individuals such as army or police officers. The means adopted may be bombs, which can affect others besides the target, or shootings, which produce a lesser but nonetheless real risk of collateral damage. By general targets we refer to more indiscriminate attacks on, for example, Sunnis or Shi'as or vice versa. Such attacks can involve explosions of bombs in crowded places such as markets or where religious processions or gatherings are taking place.

43. The CJEU requires us to decide whether the degree of indiscriminate violence characterising the armed conflict taking place reaches such a high level as to show the existence for an ordinary civilian of a real risk of serious harm in the country or in a particular region. When we refer below to the "Article 15(c) threshold", this is what we have in mind. Thus it is necessary to assess whether the level of violence is such as to meet the test. Thus there were put before us reports which assessed the

number of killings in recent years resulting from acts of violence which could properly be regarded as resulting from internal armed conflict. While the ECJ used the word 'exceptional', it may be too restrictive to use this term to describe the test and we would follow the approach in *QD* which stated at [36] that the armed conflict itself need not be exceptional but that there must be 'an intensity of indiscriminate violence – which will self-evidently not characterise every such situation – great enough to meet the test spelt out by the ECJ'.

44. In *HM1* at [73] the Tribunal decided that an attempt to distinguish between a real risk of targeted and incidental killing of civilians during armed conflict was not a helpful exercise. We agree, but in assessing whether the risk reaches the level required by the CJEU, focus on the evidence about the numbers of civilians killed or wounded is obviously of prime importance. Thus we have been told that each death can be multiplied up to seven times when considering injuries to bystanders. This is somewhat speculative and it must be obvious that the risk of what has been called collateral damage will differ depending on the nature of the killing. A bomb is likely to cause far greater "collateral damage" than an assassination by shooting. But the incidence and numbers of death are a helpful starting point.

45. The harm in question must be serious enough to merit medical treatment. It is not limited to physical harm and can include serious mental harm such as, for example, post-traumatic stress disorder. We repeat and adopt what the Tribunal said in *HM1* at [80]:

> "In our judgment the nexus between the generalised armed conflict and the indiscriminate violence posing a real risk to life or person is met when the intensity of the conflict involves means of combat (whether permissible under the laws of war or not) that seriously endanger non-combatants as well as result in such a general breakdown of law and order as to permit anarchy and criminality occasioning the serious harm referred to in the Directive. Such violence is indiscriminate in effect even if not necessarily in aim. As the French Conseil d'Etat observed in *Baskarathas*, it is not necessary for the threat to life or person to derive from protagonists in the armed conflict in question: it can simply be a product of the breakdown of law and order."

THE APPELLANTS

46. The appellants are nationals of Iraq. All three appeal against decisions of the respondent that they are to be removed from the United Kingdom by way of directions under section 10 of the Immigration and Asylum Act 1999.

<u>HM & RM</u>

47. In the case of the first two appellants, HM and RM, their appeals were dismissed on 20 March 2008. It was accepted by the immigration judge that their father was a former resident of the Kurdish Regional Government (KRG) concerned with the oil business, who had experienced difficulties with the Kurdish authorities. He came to the United Kingdom in 1998 and sought asylum in 1999. He was granted exceptional leave to remain. Since 1998, the two appellants had been living in Kirkuk, in the

Tameem Governorate (falling within what are known as "the disputed territories"). They came to the UK in 2007 and claimed asylum. When their claims were rejected and they appealed, the immigration judge did not accept the core elements of their claim to protection and concluded that they did not have a well founded fear of persecution in Kirkuk. He rejected their claim to subsidiary protection and concluded that the high threshold required to engage Article 3 was not met.

48. The two appellants sought and were granted orders for reconsideration of this decision, after an initial refusal by a Senior Immigration Judge, by Blake J in the High Court. Subsequently, after the judgment of the ECJ in *Elgafaji*, and the decision of the Court of Appeal in *QD*, following a Case Management Review, on 26 August 2009, the decision of the immigration judge was set aside. It was found that by considering that the appellants could not succeed on humanitarian protection grounds solely because they had not succeeded on asylum grounds was a material error of law. However, the findings of fact were preserved and the case proceeded to second stage reconsideration on whether "considered simply as two male civilians from Kirkuk these two appellants would face a real risk of serious harm under paragraph 339C of the Immigration Rules (Article 15(c) of the Qualification Directive)". Thereafter the cases were joined with two others to proceed as country guidance cases. Neither has a current or expired Iraqi passport and neither currently holds an Iraqi laissez-passer document.

49. As already noted, the country guidance case was heard in June 2010 and the appeals were dismissed. Subsequently, the decision was set aside by the Court of Appeal in *HM2*.

HF

50. HF's appeal against refusal of asylum was dismissed by an immigration judge on 22 June 2009. He is from Baghdad. He was found to lack credibility. The judge noted the submission that he was at particular risk because he was a young male Sunni Muslim who had indirect links with the Ba'ath party via his father, but the judge considered there was no credible assessment of his father's position in the party. He did not think that the appellant's links with the party, if they existed at all, were such as to cause any anxiety on his behalf.

51. The appeal having been dismissed, the appellant sought and was granted a reconsideration of the judge's decision. On 9 December 2009, it was ordered by a senior immigration judge that the immigration judge had materially erred in law in relying in part for his guidance as to the law relating to Article 15(c) on the Tribunal determination in *KH (Article 15(c) Qualification Directive*) Iraq CG [2008] UKAIT 46, which the Court of Appeal had subsequently held in *QD* was not to be followed. It was ordered that the judge's credibility findings were to stand, so the appellant was to be considered as a young Sunni male whose home area was Baghdad and who might have had indirect links with the Ba'ath party. Subsequently, it was decided that HF's case would be an appropriate one to join HM and RM as cases for fresh country guidance in light of the quashing of the decision in *HM2* since HF is from Baghdad and it was thought that it would be helpful to have guidance in respect of

an appellant from a part of Iraq other than Kirkuk where HM and RM are from. HF has an expired Iraqi passport.

PROCEDURAL HISTORY

52. In addition to the steps just described, a Case Management Review hearing took place at Field House on 16 January 2012, setting out a timetable for the serving of detailed grounds of appeal, the identification of relevant country information material, the service of expert reports, and the provision of paginated and indexed appeal bundles.

53. A further Case Management Review hearing took place on 16 April 2012 at which further directions were given in respect of timetabling for the service of a response by one of the experts and skeleton arguments. It was also clarified that permission was refused for HM and RM to seek to challenge the decision of the immigration judge with respect to the Refugee Convention and Article 8.

54. After concluding the hearing of the appeals in May 2012, we received a number of further submissions. On 25 May we received the Secretary of State's Note on Returns, and her Note on Statistics on 6 June. On 26 June the Secretary of State filed her submissions on the UNHCR May 2012 Guidelines, and on 29 June the appellants filed their response to the above three matters. The appellants put in further submissions on the UNHCR Guidelines on 11 July, the Secretary of State replied to the appellants' post-hearing submissions on 18 July, and the appellants filed their final reply note on 25 July. Following the hearing on October 12, we sought and received within a short period further factual information relating to documentation for returnees.

THE UNHCR ELIGIBILITY GUIDELINES ON IRAQ AND OTHER KEY MATERIALS

UNHCR Eligibility Guidelines

55. As noted earlier and will be made clearer below, Mr Fordham made a central plank of the appellants' submissions the UNHCR Eligibility Guidelines on Iraq which he asked us to make the centrepiece of our own country guidance. It is of particular importance, therefore, to set out what these guidelines say before going on to summarise the background evidence otherwise. As already noted, when we began hearing these appeals the current guidance was the April 2009 "UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum Seekers" (April 2009 Guidelines) and the July 2010 "Note on the Continued Applicability". Very recently UNHCR has issued revised Eligibility Guidelines on 31 May 2012. It is pertinent, therefore, to summarise both.

2009 Guidelines

56. The 2009 UNHCR Guidelines identified two main types of risk categories: (1) specific risk categories consisting of specific groups who are targeted by the insurgents; and (2) general risk categories based on geographical considerations.

57. As to (1), UNHCR considered that for international protection purposes 'favourable consideration' should be given to persons in the following categories: Iraqis affiliated with political parties in power struggles; government officials and other persons associated with the current Iraqi government, administration or institutions; Iraqis (perceived to be) opposing armed groups or political factions; Iraqis affiliated with the MNF-1 or foreign companies; members of religious and ethnic minorities; certain professionals (academics, judges, doctors); journalists and media workers; UN and NGO workers, human rights activists; homosexuals; women and children with specific profiles. It was made clear that the above list was not intended to be exhaustive.

58. As to (2), UNHCR considered all Iraqi asylum seekers from the five central governorates of Baghdad, Diyala, Kirkuk, Ninewah and Salah-Al-Din to be "in need of international protection".

59. The 2009 Guidelines and subsequent documents confirming their continued applicability were of course the focus of submissions at the hearing before us in April and May.

2012 Guidelines

60. Subsequent to that hearing, UNHCR has issued new guidance: the "UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq", 31 May 2012. These are divided into four parts: I (Introduction); II (Background Information); III (Main Actors of Persecution and Violence and Indiscriminate Violence); and IV (Eligibility for International Protection). The opening passages of the Guidelines state:

> "Introduction
>
> These Eligibility Guidelines replace the April 2009 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq and the 2010 Note on the Continued Applicability of the April 2009 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers. The purpose of these Eligibility Guidelines is to set out the profiles of asylum-seekers for whom international protection needs are likely to arise in the current context in Iraq.
>
> The current situation in Iraq can be characterized as one of ongoing uncertainty due to several factors, including:
>
> (i) high levels of political and sectarian violence;
>
> (ii) the unpredictable security situation, including significant numbers of civilian casualties as a result of attacks by armed groups;
>
> (iii) the full withdrawal of US forces from Iraq at the end of 2011; and

(iv) continuing challenges with regard to establishment of the rule of law, provision of services, distribution of land, and respect for human rights.

UNHCR's recommendations with regard to assessing the international protection needs of asylum seekers from Iraq, as set out in these Eligibility Guidelines, may be summarized as follows.

All claims lodged by asylum-seekers – whether on the basis of the refugee criteria contained in the 1951 Convention relating to the Status of Refugees 3 and/or its 1967 Protocol 4 (1951 Convention), or broader international protection criteria, including complementary forms of protection – need to be considered on their own merits in fair and efficient status determination procedures and based on up to-date and relevant country of origin information.

UNHCR considers that asylum-seekers from Iraq with the following profiles, and depending on the particular circumstances of the individual case, are likely to be in need of international refugee protection. These risk profiles are not necessarily exhaustive, nor is there any hierarchy implied in the order in which they are presented:

(i) individuals associated with (or perceived to be supporting) the Iraqi authorities, the Iraqi Security Forces (ISF) or the former foreign forces in Iraq (Multinational Forces in Iraq, MNF-I or US Forces in Iraq, USF-I);

(ii) individuals (perceived as) opposing the Iraqi authorities;

(iii) individuals (perceived as) opposing the Kurdish Regional Government (KRG);

(iv) certain professionals;

(v) individuals with religion-based claims,

(vi) individuals with ethnicity-based claims;

(vii) women with specific profiles or in specific circumstances;

(viii) children with specific profiles or in specific circumstances;

(ix) victims or persons at risk of trafficking; and

(x) lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals.

In light of the ongoing non-international armed conflict-related civilian casualties, security incidents and conflict-induced displacement, in particular in central Iraq, UNHCR recommends that international protection applications lodged by Iraqis claiming to flee high levels of and/or intense violence should each be assessed carefully, in light of the evidence presented by the applicant and other current and reliable information on their place of former residence. This will include an assessment of whether the violence in the place of former residence is of such a level and intensity that international protection is required under complementary protection regimes, even if the protection need cannot be related to a 1951 Convention ground.

UNHCR considers that internal flight options are often not available in Iraq due to serious risks faced by Iraqis throughout the country, including threats to safety and security, accessibility problems and lack of livelihood opportunities."

61. At p.7 it is explained that:

"In preparing these Eligibility Guidelines, UNHCR has analysed the most up-to-date and relevant information available from a wide variety of sources at 18 March 2012. However, access to fully comprehensive information on the situation in Iraq is not always accessible for a variety of reasons. In addition to publicly available sources, the analysis contained in these Eligibility Guidelines is also informed by reliable reports provided by: (i) Iraqi asylum-seekers and refugees around the world; (ii) internally displaced person (IDP) and returnee monitoring operations in Iraq; and (iii) UNHCR operations, UN agencies and other partners in Iraq."

62. As regards risk arising from indiscriminate and generalised violence, the Guidelines state in its summary at pp. 47-48 that:

"Summary

The levels of violence in Iraq have declined from that experienced at the height of the conflict in 2006 and 2007. However, while the violence appears to have stabilized, is still at a high level and continues to affect a large number of Iraqis.

As described above, based on information known and available to UNHCR as at 18 March 2012, the situation in certain areas, principally in central Iraq, continues to be affected by: (i) significant numbers of civilian casualties; (ii) frequent security incidents; and (iii) significant numbers of persons who remain displaced. Consequently, Iraqi asylum-seekers who do not meet the 1951 Convention criteria and who were formerly residing in governorates, districts, cities, towns, villages or neighbourhoods where, at the time of adjudication of the asylum claim, high levels and a high intensity of violence continue to be reported, are, for reason of the foreseen impact on the individual concerned, likely to be in need of complementary forms of protection on the basis of a fear of serious and indiscriminate harm arising from that violence.

Information on the levels, intensity and impact of violence in an asylum-seeker's governorate, district, city, town, village or neighbourhood of origin is needed to assess the possible protection needs of persons found not to meet the 1951 Convention refugee criteria under broader international protection criteria. The current situation in Iraq does not allow for generalised conclusions in this regard on the basis of broad geographic distinctions. Therefore, adjudicators will need to assess on a case-by-case basis whether an individual asylum-seeker who has been found not to meet the refugee criteria of the 1951 Convention will run a risk of serious and indiscriminate harm upon return. In doing so, the principle of the shared burden of proof requires that both the asylum-seeker and the adjudicator make every reasonable effort to provide specific and up-to-date information on the situation in the asylum-seeker's former place of residence to support their position."

63. In Part IV, dealing with Eligibility for International Protection, the Guidelines summarise matters as follows.

"IV. Eligibility for International Protection

UNHCR recommends that all claims by asylum-seekers from Iraq be considered on their individual merits in fair and efficient refugee status determination procedures, taking into account up-to-date and relevant country of origin information. UNHCR considers that, depending on the particular details of their claims, individuals with profiles and in circumstances similar to those outlined below are likely to be in need of international refugee protection in the sense of the 1951 Convention and the 1967 Protocol.

This listing is not exhaustive and is based on information available to UNHCR as at 18 March 2012. An individual's claim is not without merit simply because he or she does not fall within any of the profiles identified below. Similarly, not all persons falling within these risk profiles will necessarily be in need of international refugee protection: in the assessment of whether or not a claimant would be likely to be exposed to persecution or serious harm upon return, the specific elements of the individual claim are decisive. Certain claims by asylum-seekers from Iraq, including of those possibly falling within risk profiles described in these guidelines, will require examination for possible exclusion from refugee status.

For persons who have already been recognized as refugees, their status may be reviewed only if there are indications, in an individual case, that there are grounds for cancellation of refugee status which was wrongly granted in the first instance; revocation of refugee status on the grounds of Article 1F of the 1951 Convention; or cessation of refugee status on the basis of Article 1C(1-4) of the 1951 Convention. UNHCR considers that the current situation in Iraq does not warrant cessation of refugee status on the basis of Article 1C(5) of the 1951 Convention."

UKBA Iraq Operational Guidance Note (OGN)

64. The Iraq Operational Guidance Note (OGN) of December 2011 says, at [2.3.4] that violence in Iraq, albeit still far above what ought to be tolerable, has levelled off in the past two years. It is said that if insurgents remain as weak as they are and find no opportunity to exploit political fractures, security forces operating at less-than-optimal levels should still face no serious difficulty in confronting them. However, although oversight by the MoI and MoD was increased, problems continue with all security forces, arising from sectarian divisions, corruption and unwillingness to serve outside the areas in which personnel were recruited. In the KRG, though the security situation is considerably better than in the rest of Iraq, there are concerns about human rights violations.

65. Roadside terrorist attacks occur frequently, especially on main routes, though the central provinces are not as hazardous as in 2005-2008. Iraq is seen (referring to the Internal Displacement Monitoring Centre (IDMC) report of June 2011) as moving away from an emergency situation to a development phase. However, new displacement still occurs, and a large number of people have unmet humanitarian needs.

66. At [3.6.2] it is noted that the security situation in Iraq continues to affect the civilian population, who face ongoing acts of violence perpetrated by armed opposition

groups and criminal gangs. In particular, armed groups continue to employ tactics that deliberately target crowded public areas and kill and maim civilians indiscriminately. Some attacks appear to be sectarian but others appear random, aimed at terrorising the population at large and casting doubt over the ability of the Government and the Iraqi security forces to stem the violence. Targeted assassinations persist across the country. It is said that steady progress is being made and security incidents are remaining near the lowest levels in more than five years, despite a spike in attacks during the March 2010 election. In 2010 the overall level of violence in Iraq was about 90% lower than the peak in 2007. AQI, other Sunni Islamist factions and various neo-Ba'athist groups still carry out bombings and targeted attacks in parts of the country and continue to try to trigger a new round of Sunni-Shi-ite fighting. Security remains a key challenge.

Tribunal CG and related case law

67. Leaving aside cases pre-dating the coming into force of the Qualification Directive, the cases which the Asylum and Immigration Tribunal and its successor the Upper Tribunal (Immigration and Asylum Chamber) have designated as country guidance cases are (with full citations) as follows. Specific comment is only made on those that have implications for the issue of Article 15(c)–related risk or the issue of internal relocation. It should be noted that even in respect of the two cases overturned by the Court of Appeal, *KH* and *HMI*, those decisions contain a record of evidence relating to background country evidence and expert evidence as given to those tribunals.

- *NS (Iraq; perceived collaborator; relocation) Iraq CG* [2007] UKAIT 00046

- *KH (Article 15(c) Qualification Directive*) Iraq CG [2008] UKAIT 00023

68. The Tribunal concluded that whilst Iraq was considered to be in a state of internal armed conflict, it did not consider that there were significantly high levels of indiscriminate violence throughout Iraq so as to make all civilians at risk of serious harm.

69. This case was overturned by the Court of Appeal in *QD (Iraq) v Secretary of State for the Home Department* [2009] EWCA Civ 620, [2011] 1 WLR 689.

- *NA (Palestinians – risk)* Iraq CG [2008] UKAIT 00046

- *SI (expert evidence – Kurd- SM confirmed*) Iraq CG [2008] UKAIT 00094

70. The relevant passage of the headnote stated:

> "3. *The guidance given in SM [SM and Others (Kurds-Protection-Relocation) Iraq CG [2005] UKAIT 00111] regarding relocation of a Kurd from the KRG to central or southern Iraq, which was that it can in general be effected without this being unduly harsh and without giving rise to a real risk "in all but the most exceptional high profile cases" of their relocation being brought to the attention of [any of the KRG authorities], also remains valid."*

- *SR (Iraqi/Arab Christian: relocation to KRG)* Iraq CG [2009] UKAIT 00038

71. The headnote stated:

> *"An Iraqi Arab Christian at risk in his home area and throughout central and southern Iraq is likely to be able to obtain the documentation needed by a person wishing to relocate within Iraq, and is likely to be able to relocate to the KRG with the assistance of a sponsor, in particular, on the basis of the latest statistics available, in Erbil or Dohuk".*

- *ZQ (serving soldier)* Iraq CG [2009] UKAIT 00048

72. The relevant part of the headnote stated:

> *"v) Insofar as the risk categories of NS (Iraq; perceived NS collaborator; relocation) Iraq CG [2007] UKAIT 00046 may cover persons who by virtue of their work have become members of the Multinational Forces or the Coalition Provisional Authority, application of its guidance will need to bear in mind that the state's duty to protect them will be very limited".*

- *HM and Others* (Article 15(c)) Iraq CG [2010] UKUT 331 (IAC) ("HM1")

73. The Tribunal concluded at [278(viii)] that:

> "In short, the risk for mere civilians of being the victim of indiscriminate harm is not so substantial, the ability of the GoI is not so negligible and the willingness of the displaced populations of Iraq is not so compromised that return to that country would require international protection".

74. The Tribunal also held that internal relocation would be a viable option for Kurds both within the KRG and in southern governorates.

75. This case was overturned by the Court of Appeal in *HM (Iraq) & Anor v Secretary of State for the Home Department* [2011] EWCA Civ 1536 (13 December 2011) ("HM2"). Albeit overturning *HMI* solely on procedural grounds the Court of Appeal nevertheless expressly set aside *HMI*'s country guidance as well.

- *EA (Sunni/Shi'a mixed marriages)* Iraq CG [2011] UKUT 342 (IAC)

76. The headnote stated:

> *"(1) In general there is not a real risk of persecution or other significant harm to parties to a Sunni/Shi'a marriage in Iraq.*
>
> *(2) It may, however, be shown that there are enhanced risks, crossing the relevant risk thresholds, in rural and tribal areas, and in areas where though a Sunni man may marry a Shi'a woman without risk, the converse may not pertain.*
>
> *(3) Even if an appellant is able to demonstrate risk in his/her home area, in general it will be feasible for relocation to be effected, either to an area in a city such a Baghdad, where mixed Sunni and Shi'a families live together, or to the Kurdistan region."*

The most recent country guidance case is *MK*.

- *MK (documents - relocation)* Iraq CG [2012] UKUT 126 (IAC) (25 April 2012)

77. Its headnote states:

> *"(1) Since the lack of documentation relating to identity in the form of the Civil Status ID (CSID), Iraqi Nationality Certificate (INC) and Public Distribution System (PDS) card (food ration card) is not ordinarily an insuperable problem, it is not a factor likely to make return to any part of Iraq unsafe or unreasonable.*
>
> *(a) The CSID is an important document, both in its own right and as a gateway to obtaining other significant documents such the INC and the PDS. An inability to replace the CSID is likely to entail inability to access the INC and PDS.*
>
> *(b) Although the general position is that a person who wishes to replace a lost CSID is required to return to their home area in order to do so, there are procedures as described in this determination available which make it possible (i) for Iraqis abroad to secure the issue of a new CSID to them through the offices of the local Iraqi Embassy; (ii) for Iraqis returned to Iraq without a CSID to obtain one without necessarily having to travel to their home area. Such procedures permit family members to obtain such documentation from their home areas on an applicant's behalf or allow for a person to be given a power of attorney to obtain the same. Those who are unable immediately to establish their identity can ordinarily obtain documentation by being presented before a judge from the Civil Status Court, so as to facilitate return to their place of origin.*
>
> *(2) (a) Entry into and residence in the KRG can be effected by any Iraqi national with a CSID, INC and PDS, after registration with the Asayish (local security office). An Arab may need a sponsor; a Kurd will not.*
>
> *(b) Living conditions in the KRG for a person who has relocated there are not without difficulties, but there are jobs, and there is access to free health care facilities, education, rented accommodation and financial and other support from UNHCR.*
>
> *(3) Despite bureaucratic difficulties with registration and the difficulties faced by IDPs, it is wrong to say that there is, in general, no internal flight alternative in Iraq, bearing in mind in particular the levels of governmental and NGO support available.*
>
> *(4) Whilst the situation for women in Iraq is, in general, not such as to give rise to a real risk of persecution or serious harm, there may be particular problems affecting female headed households where family support is lacking and jobs and other means of support may be harder to come by. Careful examination of the particular circumstances of the individual's case will be especially important."*

Position in Europe

78. A September 2010 report by the Washington Post, mentioned countries sending back Iraqis as being Sweden, Norway, Denmark and Britain (quoted by Dr Fatah at [684] of his report). Amnesty International in 2010 also included the Netherlands among countries undertaking forcible returns (see also the COIS Bulletin of 22 November 2011, collation of IGC Member States Responses on Returns to Iraq). According to UNHCR, there are five other European countries which undertake forcible returns to Iraq. In its July 2011 study, Safe At Last?, UNHCR noted that the determining authorities of Germany, the UK, Netherlands, Sweden and France, with the concurrence of the judicial bodies in those countries, have not considered that the Article 15(c) threshold for mere civilians has been met in Iraq or in any region within it. (The only country mentioned as one where the courts had found the Article 15(c) threshold to be met was Belgium, in relation to central Iraq.)

79. The appellants cited a June 2010 judgment of the (First Instance) Finnish Administrative Court appearing to find that the Article 15(c) threshold was met in Iraq which was upheld by the Finnish Supreme Administrative Court in December 2010.

ECtHR cases

80. The two most notable ECtHR cases dealing with Iraq since the beginning of 2009 have been *F.H. v Sweden a*nd *Al Hamdani v Bosnia and Herzogovina* 7 February 2012. The latter is significant because it illustrates that although (as already noted) the ECtHR has stayed its decision on the case of *YA v UK*, App.No. 65580/10, lodged on 10 November 2010 to await the outcome of the *HM* cases this has not caused it to adjourn all Iraqi cases reliant on a claim that there exists an Article 15(c)/Article 3 general risk from high levels of violence.

F.H. v. Sweden, no. 32621/06, § 9320, January 2009

81. Dealing first with *F.H. v Sweden*, the Court had noted in its admissibility decision at [62] that in December 2007 and again on 15 February 2008 the UNHCR had stated that it did not promote returns to Iraq in the present circumstances since its criteria on the conditions needed for the voluntary return of refugees were not met by the situation in Iraq at that time. In its decision on the merits the ECtHR addressed the argument that the security situation in Iraq was so bad that to return anyone to that country would violate Article 3. The Court stated:

> "91. In the present case, the Court recognises the problematic security situation in Iraq. However, it notes that the situation has improved over the last year which is demonstrated, inter alia, through the progressive relinquishment of security responsibility over Iraqi provinces from US forces to Iraqi forces, the indefinite cease-fire declared by the Madhi Army in August 2008, a significant decrease in civilian deaths and the fact that some Iraqis are voluntarily starting to return to their homes, encouraged by the Iraqi Government's financial incentives and

subsidy programme. Although the Court is aware that the UNHCR, UN and IOM recommend that countries refrain from forcibly returning refugees to Iraq, they have stated that they are committed to providing assistance to those who return. Moreover, the Court observes that their recommendations are partly based on the security situation and partly due to practical problems for returnees such as shelter, health care and property restitution.

92. In this connection, the Court stresses that it attaches importance to information contained in recent reports from independent international human rights organisations or governmental sources (see, among others, Saadi v. Italy, cited above, § 131). However, its own assessment of the general situation in the country of destination is carried out only to determine whether there would be a violation of Article 3 if the applicant were to be returned to that country. Consequently, where reports are focused on general socio-economic and humanitarian conditions, the Court has been inclined to accord less weight to them, since such conditions do not necessarily have a bearing on the question of a real risk to an individual applicant of ill-treatment within the meaning of Article 3 (see NA v. the United Kingdom, cited above, § 122).

93. Hence, in the present case, the Court concludes that whilst the general situation in Iraq, and in Baghdad, is insecure and problematic, it is not so serious as to cause, by itself, a violation of Article 3 of the Convention if the applicant were to return to that country. The Court therefore has to establish whether the applicant's personal situation is such that his return to Iraq would contravene Articles 2 or 3 of the Convention."

82. The Court went on to address the applicant's contention that he would be at risk on return to Iraq on several other grounds, including his Christian faith. At [97] it held:

"97. The Court will first consider the applicant's claim that he would risk being killed because he belongs to the Christian faith. In this respect, the Court observes that Iraqi national identity cards explicitly note the holder's religion. Thus, even if the applicant were not to manifest his religious beliefs openly, it is likely that his religious affiliation would become known to others as he would have to show his identity card to the authorities in the course of everyday life. The Court also takes into account that there have been several incidents directed against Christians in Iraq, as recently as October 2008 twelve Christians were killed in attacks in the town of Mosul. However, Christian congregations are still functioning in Iraq and, from the general information available, it can be seen that the Iraqi Government has condemned all attacks against this group and that they intervened with police and military following the October attack to ensure their safety. Hence, it is clear that there is no State-sanctioned persecution of Christians and, since the attacks were also condemned by Islamic groups and no one has accepted responsibility for them, it appears that the reported attacks were carried out by individuals rather than by organised groups. In these circumstances, the Court finds that the applicant would be able to seek the protection of the Iraqi authorities if he felt threatened and that the authorities would be willing and in a position to help him. Thus, the Court considers that he would not face a real risk of persecution or ill-treatment on the basis of his religious affiliation."

Al Hamdani v Bosnia and Herzogovina 7 February 2012

83. In *Al Hamdani v Bosnia and Herzogovina* 7 February 2012 the Fourth Section reminded itself at [49]-[51] that it never excluded the possibility that the general situation of violence in a country of destination may be of a sufficient level of intensity as to entail that any removal to it would necessarily breach Article 3 of the Convention. At [50]-[52] it stated:

> "50. Turning to the present case, the Court notes that the applicant has visited Iraq twice since the change of regime, in 2003 and 2004. However, the applicant claimed that during these visits he had been forced to hide in fear of the Kurdish authorities as his friend had told him that he was under surveillance and that his name was on a "black list", and that, after he had left Iraq, the Kurds searched his family's home looking for him. On the other hand, not only did he not provide any evidence in support of these statements, they also seem to be in contradiction to what he previously said about his visits (see paragraph 23 above). From his previous statements it would appear that he moved freely in and out of public buildings and on the streets during his visits (taking his sick father to hospital and, afterwards, holding a commemoration for him). Moreover, on both visits the applicant stayed in Kirkuk for more than one month. It should be noted that the security situation in Iraq was much more dangerous at the time of the applicant's visits than it is now (according to Iraq Body Count there were 12,087 civilian deaths reported in 2003, 11, 072 in 2004 and 4,045 in 2010; www.iraqbodycount.org as downloaded on 16 November 2011). The Court has already had an opportunity to assess the general security situation in Iraq (see *F.H. v. Sweden*, no. 32621/06, § 9320, January 2009). In that case, the Court held that while the general situation in Iraq was insecure and problematic, it was not so serious as to cause, by itself, a violation of Article 3 if that applicant, a Christian and a member of the Ba'ath party, were to be returned there (see also *Müslim v. Turkey*, no. 53566/99, 26 April 2005; for a recent assessment of the security situation in Kirkuk, see *Agalar v. Norway* (dec.), no. 55120/09, 8 November 2011).
>
> 51. Although the Court is aware that the UNHCR, the UN and the IOM recommend that countries refrain from forcibly returning refugees to Iraq, they have stated that they are committed to providing assistance to those who return. Moreover, the Court observes that their recommendations are partly based on the security situation and partly due to practical problems for returnees such as shelter, health care and property restitution. In this connection, the Court stresses that it attaches importance to information contained in recent reports from independent international human rights organisations or governmental sources (see, among others, *Saadi v. Italy*, cited above, § 131). However, its own assessment of the general situation in the country of destination is carried out only to determine whether there are substantial grounds for believing that the applicant would be at a real risk of being subjected to treatment prohibited by Article 3 if he were to be returned to that country. Consequently, where reports are focused on general socio-economic and humanitarian conditions, the Court has been inclined to accord less weight to them, since such conditions do not necessarily have a bearing on the question of a real risk to an individual applicant of ill treatment within the meaning of Article 3 (see *NA*, cited above, § 122).

52. Hence, in the present case, having regard to the above considerations and the fact that the applicant visited Iraq twice, at the time of the upsurge of violence in that country, without any consequences, the Court concludes that he did not adduce any evidence capable of proving that there are substantial grounds for believing that, if deported, he would be exposed to a real risk of being subjected to treatment contrary to Article 3. Therefore, this complaint is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention. In view of this conclusion, it is appropriate to discontinue the application of Rule 39 of the Rules of Court."

THE EVIDENCE

Expert Evidence

Dr George

Written report

84. Dr George's report prepared for this case is dated 26 March 2012 (plus addendum report of the same date). There is also his response to the Secretary of State's questions of 9 April 2012.

85. His principal focus is on the general security situation. At [157] Dr George states that "all three appellants in this case would be at risk in the centre and to a lesser extent, in the south of the country because of the general security situation" and at [154] he says that "all three appellants would be at risk in Iraq, or at least in Shi'a-dominated and mixed Sunni-Shi'a communities in central and southern parts of the country, on account of their Sunni religio-political identity".

86. Dr George writes that the security situation has changed little from that described by the UNHCR in April 2009: "If anything, the position has deteriorated somewhat" due to political uncertainties and the withdrawal of US troops. At the same time "the period since US withdrawal has not seen a major increase in violence or a return of generalised sectarian violence".

87. He states that despite the relative improvement in the security situation since 2007 the return of IDPs and EDPs has been slow and halting.

88. At [133] (see also 155), Dr George states that:

> "Certain risks will apply to all returnees from the UK. In particular, they will be at risk of kidnap because, as persons who have spent time in the west, they will be perceived as being wealthy; and all returnees will be at risk from the general violence in Iraq."

89. Dr George considers that Kurdish ethnicity gives rise to a "real risk….at least in certain parts of the country. Kurds in Iraq south of the KRG-controlled zone have been targeted as part of the strife" ([141]).

90. He also considers it "plausible that the close relatives of actual or perceived abusive or high-ranking former Ba'athists would be liable to be targeted for revenge…" ([140]).

Oral evidence

91. In cross-examination, Dr George was asked whether there was any evidence of an IDP ever relocating without family support and he said that, of course, there were always exceptions and he was sure there were such cases, but the general position was as he described it at [221] and [222] of his report. The more assistance there was in relocation, the easier it was to relocate, but that would not necessarily surmount a problem, for example for a Sunni in Shi'a area. It was put to him that, although his view was that it was not possible to relocate within central governorates, it was the case that there were significant numbers of IDPs in those areas and there was help from NGOs. He said that in most cases help for IDPs would be trumped by the other factors. There would be a risk to returned asylum seekers because of a perception of wealth. There was no statistical evidence of which he was aware about risk in that regard, but perceptions in the Middle East often mattered more than reality.

92. Dr George was referred to his reference in [232] to the appellants facing a real risk of being kidnapped. He said it depended what you meant by real. It was real but not very high. He was asked whether it could be the case that in the report, where he said risk or real risk, it could include low risk. He said it could. It depended on the context. He would think in future about the adjectives to attach to the term "risk". In his report he had used "real risk" to mean something more than genuine and also something slightly more than nothing.

93. He said that he could show from figures that Kurds were more at risk in the disputed areas than in Baghdad, but the data was very poor. He could not say whether and to what extent attacks on Kurds in the disputed territories were ethnically based. A person could be in the wrong place at the wrong time in the specific context of the disputed territories. With regard to the data on killings, the statistics would not always say whether the victim was a Kurd or who the perpetrator was. The statistical data was very poor. He could not take it any further than his report. Statistical analysis was to be looked at with caution.

94. Dr George had been unimpressed by the FCO letters about Iraq produced for the hearing. He was referred specifically to the letter of 7 April 2012. The Iraq Body Count's (IBC's) daily list of attacks in Kirkuk and also his report showed far more casualties than the FCO said. He questioned what the basis for what they said was. Certainly, Sunni extremists were very active, but it was much more than that. He was not sure that there was such a thing as an indiscriminate attack. He was not aware of any evidence of Kurds fleeing Baghdad or Kirkuk recently. There had not been mass flight and a lot of Kurds had come back to reclaim properties seized during Saddam Hussein's regime. They were discouraged from entering the KRG who wished them to stay there to support the referendum that would occur one day concerning Kirkuk. There was movement in and out of the disputed territories. Being a Sunni or Shi'a was a general risk factor and not high up the league table of

risk. It was a genuine risk factor if circumstances were such as to make it a risk, for example living near to a Shi'a area in Baghdad for a Sunni or encountering a Sunni checkpoint for a Shi'a. It was the same for both. It was a question of context. Sectarianism could be irrelevant or important. He would expect the appellants as Sunnis to return to a Sunni area.

95. It was put to Dr George that in the five central governorates there seemed to be no evidence to show that life in general did not go on. He said that as a general statement that was right and likewise in the south. It was the case also in Baghdad and Kirkuk that life went on. It was put to him that evidence did not show that people were modifying their lives because of the violence and he said he was not sure about that, citing the separatism and high walls in Baghdad and security checks. Life had been affected by violence and the potential for violence. He thought that IBC was reliable. He thought it needed two reports for each figure. He accepted, broadly speaking, that the levels of violence in 2012 had been roughly the same as in 2010 and 2011, as far as was known. It was put to him that if there were 4,100 deaths a year in a population of 29 million (taking the lowest population estimate), that was 14 or 15 per 100,000. Dr George said yes, but it was not spread evenly across Iraq and there was a lot of desert.

96. Dr George accepted there was not a risk of general violence in the KRG or the south. The central governorates were more dangerous than the others. In some areas, the risk might be quite low, for example for a Sunni in a Sunni area who, in general, would not be at risk there. He was referred to the point he made at [147] concerning Kurdish families from the disputed Jalawla district in Diyala province who had left for other cities in the province. He said that in Kirkuk province, around 50% of the IDPs had relocated within the governorate and there was a general pattern which emphasised the significance of family support. Family support network would be at the top of the list for a relocating family. Although it could be that people would prefer to live there, the KRG discouraged relocation of Kurds to the KRG. He agreed that there were a lot of reasons independently of violence for people moving, for example lack of water. There were a lot of Kurds in the south, so family connections were likely to be the reason. Sunnis could do the same. He understood that there were a lot of Kurds in Kirkuk because of family connections in the KRG or elsewhere in the Kirkuk Governorate. He was referred to the IOM report concerning Kirkuk at C9, Q15. He noted the point about difficulties of transferring PDS cards. That had an impact on the ability to relocate. It was human nature to want to go home. Quite a high proportion of returnees to Iraq regretted returning. The evidence did not show starvation, people got by, Dr George agreed. He said there was malnutrition and the MoDM was ineffective.

97. He was referred to the reasons given for displacement in respect of Kirkuk, including drought and others. He said none of the others could be excluded.

98. Although he thought the IBC figures were usable, he did not think that its figures were comprehensive as not all deaths would meet its criteria and the real figures were likely to be higher. A lot of deaths were not reported. The criteria of the IBC were on its website. The IBC table included a wide variety and was intended to

include all deaths resulting from violence. It would record mass casualty attacks. He was asked whether there was anything between assassination and mass casualty attacks and he said yes, a grenade at a checkpoint killing a civilian who happened to be there but who was not the key target. As regards "woundings" and its meaning, he would take it to mean more than a scratch but rather a significant injury which could involve hospitalisation. It would be an injury needing medical treatment. He had never seen statistics on bruises or grazes. There might be trauma that did not show up on an attack. The British Embassy letters seemed based on a very limited range of sources and it did not say which security companies were involved and what level of person. The IBC corroboration system seemed better. It was necessary to approach all data in Iraq with caution. There was a view that no violence was indiscriminate in that all except criminal action was politically motivated and directed at a particular target with a particular direction.

99. As regards attacks in disputed areas, it was very difficult to know whether they were ethnically motivated or were the consequence of a power issue. The disputed areas were a main area of risk. He considered Kurds to be at risk especially in the disputed areas because of their ethnicity.

100. It was the case that the numbers of those leaving Iraq now was certainly reduced. It was a complex pattern. There was not a massive surge of Iraqis leaving Iraq and it could be economic.

Dr Fatah

Written report

101. In his very lengthy report of 28 March 2012, Dr Fatah, like Dr George, addresses the general security situation in Iraq in some detail and then goes on to analyse the situation in the five central governorates in particular, dealing in especial detail with Kirkuk. He also provides a detailed analysis of the KRG, assessing in particular security issues in the region. Thereafter he considers relocation within Iraq, both within the GoI areas and the KRG, commenting on the Danish Fact-Finding Mission Report of 2010, contrasting its conclusions with his own findings in respect of a number of issues including documentation matters, a topic on which he sets out more detailed evidence subsequently. He includes information obtained from interviews with several people, including a Kurdish police officer in Kirkuk, covering such matters as the security situation in Kirkuk and contrasting the position of Arabs and Kurds in Kirkuk. He also provides telephone interview transcripts with several asylum seekers returned from European countries.

Oral evidence

102. Dr Fatah said that he thought that figures cited in his report showed that from 2010 to today the killing had become more targeted, for example bombs in cars. It could not be said that an ordinary Kurd would be at risk per se in Iraq. You had to know where to go. You had to be with someone local and to know where to go. An ordinary Kurd should not have a problem passing into an Arab area, but if there was

political tension he would be at risk and there might be a reaction to an incident. Targeting could be of a known individual or of the public. There were always more civilians killed than security people. Dr Fatah agreed that people in the KRG face very little violence. He was asked whether it was the same in the other governorates and he said that where there was one ethnic group in the region it was fairly stable, but in mixed areas such as Baghdad, Mosul, Salah Al-Din, Diyala and Kirkuk there was more violence. It depended on the place. He was asked whether there were areas within, for example, the Tameen (Kirkuk) governorate without problems and he said that the patterns of movement by people depended on the structure of the area. The violence was never everywhere and there were random bombs. He was asked whether a family in one part of Diyala, for example, could move to another part with a lesser level of violence and he said that it was possible that a person could move to a mainly Kurdish area there. He was asked whether this was true for all the central governorates, that they could move to an area where they would be all right, and he said that this would be the case for a Sunni and a Shi'a. He agreed that generally in Tameen or Diyala governorate a Sunni or a Shi'a in their own majority area would generally not be at risk of violence apart from general violence unless they were a person in the UNHCR risk profile. If a Kurd was in a Kurdish area, there would be no problem, but he had not looked at a map of the violence and did not know what the distribution of violence in Kirkuk was. The violence did not prevent daily life from going on, though people got killed. There was a psychological impact.

103. With regard to deaths, death by the roadside might not be recorded. He was not sure if IBC would include every death, but those given were sourced. You could rely on trends. The graphs all took the same shape. It was put to him that there did not seem to be any increase since the US troops left and he said it was too early to say. There were slightly higher figures, but only over a few months. There had not been much change since 2010.

104. He was asked how broad would support networks be for a person relocating and he said that political groups were the best example and that it was all around political groups. If he were Sunni and wanting to leave, for example, Kirkuk, then he would look to go where there were other Sunnis if you were from a big tribe. Family was important. You would look for the tribe initially, which would be Sunni or Shi'a. He was asked whether, if a person was not influential in the tribe, the latter would feel obliged to help him and he said not the tribe but more a political organisation. If a person had no influence, then they would look for a job. It was put to him that his [705] was very general and he said that if he were from a city the neighbour would be like a social network and like the tribe might help with connections for jobs, etc. It was put to him that although there were job problems for IDPs, there was no evidence of starvation or a humanitarian crisis and he said he accepted that there was not a humanitarian crisis, but life was harsh. It was put to him that most IDPs lived in houses and not in apartments or towns and he said there were people living in camps. HF was single and of working age and would have to find a job.

105. There were no more Kurdish neighbourhoods in Baghdad after the Shi'a Kurds were deported by Saddam Hussein. Kurds in Baghdad would live in mixed neighbourhoods. Some had become Arabised. He agreed that if you were a Kurd

you would know where to go. There were checkpoints to avoid. With regard to the examples he gave immediately after [181] of his report, it was suggested to him that it was often unclear who had attacked and why and who the victim was and he said you could tell from the figures. Dr George had given an example of a sectarian attack.

106. He said the Shi'a militia was powerful in Baghdad. As regards risk to a Sunni Kurd who was a failed asylum seeker in Baghdad, he had to know his way around and if he was in the wrong neighbourhood he would be at more risk. There was more violence where there was a greater population. He could not say how the first appellants could avoid violence in Kirkuk. As regards the departure of the US troops, it had not reduced the exposure of civilians to high levels of violence.

BACKGROUND EVIDENCE

Statistics on Violence

107. Before noting key statistics relating to conflict-related violence in Iraq, we need to clarify our approach to the varying figures given by different data-gatherers. In *HMI* the Tribunal noted the need for caution when analysing figures relating to incidents of violence in Iraq. We sound the same note. If anything, the withdrawal of US troops appears to have resulted in fewer sources of rigorous data-gathering: as noted by the FCO letter dated 7 April 2012, with the withdrawal of US forces, there is less corroborated reporting of incidents.

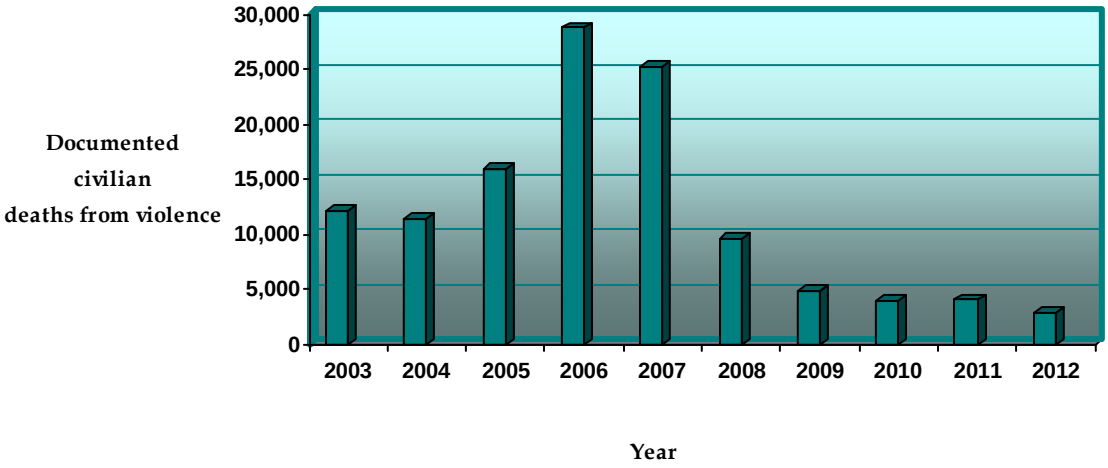
108. Before us the experts made much the same point and there was broad agreement between the parties that (1) allowance should continue to be made for underreporting; but that (2) the Iraq Body Count (IBC) figures, being based on actual reports of specific deaths, afford reasonably reliable estimates. As regards (1), we would agree with the respondent that this is not a fixed feature of the reporting of all armed conflicts but is based on the empirical evidence we have from the data gatherers themselves who continue to report on Iraqi violence. .

109. We are conscious that there are other sources that give lower figures for civilian casualties than IBC. The latest Brookings Institute Iraq Index, for example, gives recent figures for deaths (for 2010, 2,500 and 2011, 1,578) which are much lower than the IBC figures (for 2010, 4,053 and for 2011, 4,103). As accessed on 4 October 2012, the figures IBC gives for Jan-September inclusive total 2,157. The Special Inspector General for Iraq Reconstruction (SIGIR) quarterly report of 30 January 2012 also gives lower figures for civilian deaths (e.g. for 2011, 2,645). The Iraq Health, Interior and Defence Ministers also give lower figures and indeed, as noted by the May 2012 UNHCR guidelines at p.44, "Iraqi Governments sources provide consistently lower casualty figures than media reports by international observers".

110. We continue nonetheless to regard the IBC figures as being more reliable because of their use of multiple sources. The IBC notes that of the 4,087 recorded civilian deaths for 2011, "[e]vidence of these… was extracted from some 6,828 distinct reports from over 90 sources covering 1,884 incidents, each of which is openly listed on the IBC

website". (We note that the UNHCR Guidelines also utilise these figures.) When considering the IBC figures, it must be borne in mind that they do not include police deaths, although IBC describes this group as having been "a major target". It may assist if we produce a graph showing the documented number of Iraqi civilian fatalities from 2003 to August 2012.

Source : Iraq Body Count



111. The IBC statistics of civilian casualties disclose two things in particular. First, that the figures from 2009 onwards are five times lower than they were in 2006 and 2007 (whereas in 2006 and 2007 figures were 28,212 and 25,025 respectively, since 2009 the figures have not risen above 4,704). Second, that although there was a further drop in 2010 (to 4,045 from the 2009 figure of 4,704) there has been no significant decrease since 2009 (the figure for 2011 being 4,087). On the basis of IBC figures for Jan-September 2012 inclusive, 2012 appears to be on course to show broadly comparable figure to the 2011 one.

112. One matter the Tribunal sought to ascertain from the parties was whether available studies clarified what was the ratio of those killed to those injured (it being agreed that a working definition of the latter category would be persons requiring hospital treatment following an incident of violence). Whilst, there are some studies that suggest that this ratio has decreased in recent years (e.g. the Lancet study covering March 2003 – December 2010 gives a ratio of 2.5), we continue to think we should take the highest ratio suggested by reputable sources which it was agreed was in the region of between 4 to 1 and 7 to 1. The CSIS Report of 9 February 2011 states that as a rough estimate "injured and wounded would have totalled 5-7 times the number killed" and notes that this ratio is far higher than in Afghanistan.

<u>The inclusive approach</u>

113. In *HMI* at [75] the Tribunal explained why it considered that in seeking to assess whether the Article 15(c) threshold was met in Iraq it had to adopt an inclusive approach.

114. One aspect of the inclusive approach is an appreciation that there are threats to the physical safety and integrity of civilians beyond those measured in the civilian casualty rates. As put by Michael Knights of the Washington Institute for Near East Policy in a report of 16 February, 2012 entitled "A Violent New Year in Iraq, The National Interest (cited at n. 217 of the May 2012 UNHCR Guidelines), "[m]ass casualty attacks tell only part of the story of violence in Iraq, and mortality statistics overlook the targeted nature of violence in today's Iraq, where a high proportion of victims are local progovernment community leaders. For every one person of this kind who is killed, an exponential number of others are intimidated into passive support for insurgent groups". Whilst our principal focus when examining levels of violence is physical harm causing death or injury, it is important that we also take account of indirect forms of violence such as threats, intimidation, blackmail, seizure of property, raids on homes and businesses, use of checkpoints to push out other factions, kidnapping and extortion. To adopt Mr Fordham's metaphor, these factors mean that most Iraqis (outside the KRG) l continue to "live under the shadow of violence".

Iraq as a whole

115. As already noted, it is not the appellants' position that Iraq overall is presently afflicted by a level of violence at or above the Article 15(c) threshold and, of course, it has not been UNHCR's position since 2009 that it is either. Indeed, in its May 2012 Guidelines UNHCR observes (see above [61]) that the current situation "does not allow for generalised conclusions on the basis of broad geographical distinctions". Nevertheless it is clear from the background evidence that Iraq remains a country seriously affected by violence.

116. Up until 2011, Iraq had been ranked by the Global Peace Index (GPI) as the world's least peaceful country for four consecutive years. The 5th edition of the GPI for 2011 ranks Iraq as the world's second least-peaceful country after Somalia. In its July 2011 report the Minority Rights Group placed Iraqis fourth on a list of people most under threat, after Somalis, Sudanese and Afghans.

117. According to UNHCR's statistical overview of asylum applications lodged in Europe and selected non-European industrialised countries, 18 October 2011, Iraq is the fourth largest country of origin of asylum seekers. The proportion of its population who are displaced persons (15.4%) is the third highest in the world according to data from UNHCR.

118. According to an August 2010 IOM study identifying an estimated 339,000 Iraqis as being returning IDPs, 55% of returnee families cited improved security as their primary reason for return. At the same time, 25% of returnee families say they have no access to healthcare and only 61% have water in their homes.

Parties to the conflict

State and coalition actors

119. The withdrawal of US troops was completed on 18 December 2011. The Iraqi security apparatus is said to number roughly 900,000 soldiers and police. Different figures can be found for just how many of the overall number of approx. 900,000 are police: according to the UNSC Report of SG on Children and Armed Conflict – Iraq, 15 June 2011, the police number approximately 400,000; according to a source cited by the 2012 UNHCR Guidelines, n.217, the figure for police is 650,000 out of a total of 939,000 ISF.

120. The pro-government Awakening Councils or Sahwa are now regarded as part of the Iraqi security forces (Dr Fatah, [72]). Dr Fatah notes that the size of the Kurdish peshmerga forces and the security forces under the administration of the PUK and KDP is about 190,000.

Insurgents

121. The main Shi'a insurgent groups are the Sadr militia or Promised Day Brigade, various Shi'a Factions like the Special Groups, and Shi'a extremist groups such as Kata'ib Hizbullah (KH). It remains unclear whether the Mahdi Army, responsible for a great deal of politically-orientated violence since 2003, has disbanded.

122. The main Sunni insurgent groups, estimated at around 200,000 in number, include former Ba'athist regime elements, Sunni Islamists, Salafists, remnants of the Kurdish Ansar al-Islam and foreign Islamist volunteers. AQI remains the group responsible for most of the mass casualty attacks since the US withdrawal.

123. According to the SIGIR 30 October 2011 Quarterly Report to the US Congress, a US commander described the decline in the number of foreign fighters as "dramatic". Whilst AQI continues to operate primarily in regions with majority Sunni Arab populations, particularly around Baghdad and Ninewah, it appears unable to command territory or population centres. According to JSCRA Iraq, 21 March 2011, "[t]errorist insurgent groups have been whittled down to a hard core, with many less committed elements having been paved away. Completely reducing this remaining cadre will be a slow and difficult process".

124. Many militias have ties with criminal networks. Violent crime is at high levels. According to the 2012 UNHCR Guidelines p 8, "[c]rime is widespread and some armed groups reportedly engage in extortion, kidnapping and armed robberies to fund their other, politically - or religiously, or ideologically - motivated activities, conflating acts of persecution and criminality…"

Level and intensity of violence

125. In *HMI* at [260] the Tribunal said:

> "Like UNHCR we are wary of assuming that various insurgent groups will not, once again, when it suits, revert to tactics such as the bombing of market places that maximise civilian casualties and deploy methods suited to achieving that. However, we do think that it can properly be said that in August/early September 2010 the various insurgent groups, AQI included, are weaker organisationally and militarily and that the evidence does not suggest that this will change in the foreseeable future. To that extent we do think it is correct to regard the levels of indiscriminate violence as being not only lower presently but likely not to revert to anything like the levels they reached in 2006/2007. Whilst the US is committed to a responsible "draw-down" it is clear that there continues to be a great deal of US and international involvement in, and support for, the Iraqi government. The main Sunni and Shi'a parties and organisations appear increasingly committed to distributing power through civil rather than military means."

126. There are significant items of evidence that indicate that the nature and intensity of the violence in Iraq is less serious than it was in 2009. For example, the Global Peace Index notes that Iraq's score "improved substantially" in 2011 and that (albeit at slow rates) there has continued to be year-on-year improvements every year since 2007. And according to UN statistics, there were a total of 5,470 security incidents in 2011, as compared to 8,909 and 9,213 such incidents in 2009 and 2010 respectively.

127. On the other hand, there are some other studies that consider that violence in Iraq is again getting worse. For example, as noted by the 2012 UNHCR Guidelines at n.38, Michael Knights of the Washington Institute for Near East Policy, which collates security metrics from the Iraqi government, observes that Iraq witnessed 36 confirmed attempted mass-casualty attacks in January 2012, a significant increase of the average of 23 attacks a month in the last quarter of 2011. It further notes 561 reported attacks in January 2012, compared to 494 reported attacks in December 2011 and 302 reported attacks in November 2011. The Iraq Brookings Institute as accessed 4 October 2012 notes that the UN has reported that in the first 6 months of 2012, 2,101 Iraqis were killed in violent attacks compared to 1,832 in the same period of 2011. The SIGIR report of 30 July 2012 (accessed on the same) date notes that a series of attacks on 23 July in Taji, Baghdad and Kirkuk resulted in the largest one day death toll in more than 2 years.

128. The thrust of the background evidence is that overall there is no clear trend demonstrating either an increase or decrease in the level and intensity of violence assessed on a year by year basis. So far as concerns the figures for civilian casualties for 2011, they are similar to those for 2010. It was agreed by both Dr George and Dr Fatah that January was an unusual month and that overall there was no evidence to show any increase in that level in 2012. The Brookings Institute figures for the first 6 months of 2012 suggest that 2012 may see an increase over the figure for 2011 but only a very small one.

129. So far as concerns trends relating to the level of civilian casualties, the May 2012 UNHCR Guidelines state that, that taking the most recent figures, "it appears that there is no noticeable downward trend in civilian casualty figures since mid 2009" and that, in the words of the IBC in a January 2012 report, a "persistent low-level conflict" has taken root in the country, which "will continue to kill civilians at a

similar rate for years to come ("an impassable minimum")." The great majority of civilian deaths and injuries are caused by the insurgents, although according to the IBC in January 2012, the rate of civilian deaths caused by the ISF has increased from 96 in 2010 to 141 in 2011.

130. So far as concerns combatant casualty figures, all sources record a decline in figures. The CSIS Report, Iraq: Patterns of Violence, Casualty Trends and Emerging Security Threats, 9 February 2011 discloses that since 2009 there have been roughly similar falls in combatant casualty figures as there have been in civilian casualty figures.

131. It would appear that the use of IEDs has become the *modus operandi* of militants for the last two years. That appears to show a change of tactics as insurgents and militias are using smaller bombs and more indirect tactics (source cited by Dr George, [172]). At the same time, although they only account for a small proportion of attacks, mass casualty attacks have remained a key part of insurgent tactics ([176]).

132. The USDD Report, Measuring Stability and Security in Iraq, March 2010 noted that the pattern of violence emerging was that of periodic, spectacular, multiple-device high-profile attacks as the extremists' preferred method to create outsized effects whilst harbouring resources.

133. Dr George said that "there does not appear to be any firm, consistent trend towards increased or decreased use of more targeted, or indeed, more indiscriminate, modes of attack".

Targeted violence

134. In line with our earlier observations at [42], rather than conceiving targeted and indiscriminate violence as dichotomous it would appear that they are both part of a complex spectrum. Thus, for example within the category of targeted violence, there can be (1) specific targeting, i.e. very precise attacks, e.g. by way of an assassin's bullet; (2) general targeting, i.e. targeting which by virtue of its method and sometimes purpose harms civilians as well as their intended targets e.g. a long-range mortar fired at a police station in a civilian area or a suicide bombing aimed at a mosque belonging to one refugee group or another. And of course, as we shall return to in a moment, sometimes civilians as such can be targeted.

Civilian casualties

135. The Danish Immigration Service report from fact-finding mission to Amman, Jordan and Baghdad of September 2010 concluded that the proportion of civilian casualties had increased steadily, with figures for 2009 showing over 70% of all casualties classified as civilians and one could no longer speak of an improvement in security for Iraqis. In Kirkuk the situation was particularly fragile.

136. The ICRC briefing dated 8 November 2011 states that:

> "The level of violence linked to the conflict is slowly decreasing, but its cost remains high in terms of civilian casualties. Central Iraq and Baghdad especially remain volatile, unpredictable and often dangerous due to acts of violence that still claim the lives of tens of persons every month.
>
> Civilians often die in random attacks designed to spread fear and discord among the general populace. Even in attacks designed to destabilise state services, civilians are often the unfortunate victims."

Targeting of civilians

137. Whilst the overall casualty figures have not changed significantly, the evidence shows that there has been an increase within the overall figures in the number of incidents of targeted violence. According to Dr Fatah, the use of targeted attacks "has only recently become a feature of violence in Iraq" ([125]). Of course, what is meant by "targeted" violence is not always clear, since it is possible to be generally targeted (e.g. by being a member of an identifiable group) as well as specifically targeted and studies also refer to "civilians" being targeted: see above at [42], [133].

138. There appears to be a trend towards increasing targeting of Iraqi security forces and government employees, although the UNAMI Report for the January to December 2010 period makes clear that in addition to public officials, persons whose jobs are clearly civilian, e.g. community and religious leaders, journalists, medical and education professionals, were the main targets. The UN SIGIR Report dated 26 November 2010 states that with US forces being less of a target "armed opposition groups have changed tactics, relying more on long-range weapons that target indiscriminately. It is also clear that the means and methods used in a number of attacks – Vehicle Borne IEDs and Small Arms Fire are frequently carried out in public spaces heedless of the toll on civilian lives…".

139. However, even if the trend is towards greater targeting of soldiers and police, it is clear that attacks targeting civilians continue. The various reports reveal that in addition to government buildings and officials, assailants have targeted a wide range of places where civilians live or frequent: embassies, hotels, factories, markets, mosques, checkpoints. People gathering for religious pilgrimages, weddings and funerals have also been attacked mainly in Shi'a areas (HRW, 2011). A vivid example of an attack wounding many civilians is provided in the SIGIR Quarterly Report dated 30 April 2012 which contains the following entry: "24 January: car bomb killed 11 people in Sadr City; multiple vehicle-borne improvised explosive device (VBIED) and improvised explosive device (IED) attacks killed 12 and wounded 80 in predominantly Shi'a areas of Baghdad."

Combatant casualties

140. According to the 2010 US State Department Report on Terrorism in Iraq, the main targets of bomb attacks during 2010 "were against security forces, government buildings and western targets".

141. Among the state actors in Iraq the police have been a particular target. According to the IBC the police have been "a major target" with "by far the largest toll of any professional group". It records that between 2003-2011 there have been 8,991 police deaths. At p.15 the 2012 UNHCR Guidelines note that:

> "members of the Iraqi Police are often particularly targeted: they do not have heavy weapons and equipment and receive less training than the Iraqi Army, and are accordingly reportedly considered the weakest element of the ISP. In 2011, according to Iraqi Government statistics, about 40% of Iraqis killed were ISF members, including 609 Iraqi Police and 458 soldiers".

142. For insurgent casualties: the IBC has estimated that 20,000 "enemy" – i.e. insurgent/anti-Coalition - deaths in respect of the period January 2004-December 2009.

Comparison with other conflicts

143. In the body of evidence before us there is some material seeking to compare levels of violence in Iraq with those prevailing in other countries. According to the CSIS study by Cordemann and Khazai, Iraq and the Challenge of Continuing Violence, 6 February 2012, in 2011 there were fewer attacks, fewer deaths and fewer acts of hostage-taking place in Iraq than in Afghanistan although the number of wounded was higher. However the CSIS Report on the Real Outcome of the Iraq War, 8 March 2012, notes that data from the UN National Counter Terrorism Center (NCTC) show that Iraq had a consistently higher level of violence than Afghanistan during 2009-2011 with no consistent reduction in violence since mid-2009. In *AK (Afghanistan)* [2012] UKUT 163 (IAC) at [201]-[207]) the Tribunal dealt with the principal findings of the CSIS study in relation to a comparison of the armed conflicts in Afghanistan and Iraq and also submissions as to the relative figures for levels of violence in Somalia.

144. In a similar vein, in relation to the comparison between levels of violence in Iraq and Somalia, Mr Fordham (whose submissions we shall summarise in due course) pointed out that according to *AMM* [2011] UKUT 445 (IAC) in Mogadishu in Somalia, a city of around 2½ million in population, there were 918 deaths in 2010.

Sunnis and Shi'as

145. As regards identity as a Sunni or Shi'a, the population of Iraq is about 55-60% Shi'a and 12-15% Sunni Arab. In the 2012 UNHCR Eligibility Guidelines at pp.25-6 it is said that "[d]epending on the individual circumstances of the case, persons with the profiles described below are likely to be in need of international refugee protection on account of their religion or perceived religious (or non-religious) identity" and under (a) states the following:

> *"a) Sunnis and Shi'as*

While open sectarian violence between Arab Sunnis and Arab Shi'as ended in 2008, armed Sunni groups continue to target Shi'a civilians with the apparent aim of reigniting sectarian tension. Sectarian-motivated violence includes: mass-casualty attacks targeting Shit'ite civilians and pilgrims; threats against Sunnis in Shi'a majority areas and Shi'as in Sunni majority areas; as well as targeted killings of both Sunni and Shi'a clerics and scholars. Baathist ties and/or purported engagement in terrorism are often equated to sectarianism by the Iraqi Government and the ISF. Many individuals accused of Ba'athist ties and/or terrorism and thus perceived to be engaged in sectarianism are of Sunni background.

i. Shi'a civilans, including pilgrims

Shi'a civilians - in particular, Shi'as performing their religious duties at the mosque, during funerals or mournings, or when on pilgrimage - are a key target for Sunni armed groups. The main aim of these attacks appears to be to divide Iraqis along sectarian lines in order to reignite tensions and violence. Attacks are most frequent on religious holidays, when thousands of pilgrims, including from Iran, march to and gather at Shi'a holy sites in Baghdad, Kerbala and Najef, but also in other areas of southern Iraq. Attacks on Shi'a pilgrims and civilians have also taken place in the mixed governorates of Diyala, Ninewa, Salah Al-Din and Kirkuk, where Shi'a Turkmen, Shabak or Kurds (Faili Kurds) may also be targeted, and in the mainly Sunni Al- Anbar Governorate. Shi'a civilians have also frequently been attacked in their homes, in restaurants or other public places in predominantly Shi'a governorates, towns or neighbourhoods.

ii. Sunni Arabs in Majority Shi'a Arab areas and Shi'a Arabs in Majority Sunni Arab Areas

During the period of heightened sectarian violence in 2006 and 2007, the social and demographic make-up of many areas were altered as Sunni and Shi'a armed groups sought to seize control and to cleanse "mixed" areas of the rival sect. This occurred principally in Baghdad, Iraq's most diverse city, but also in the mixed towns and villages surrounding it. During that period, many members of both sects were internally displaced or fled abroad. To date, most of Baghdad's formerly mixed neighbourhoods remain largely homogenized, preventing many from returning to their former areas of residence. In only a few neighbourhoods of Baghdad do members of both sects live side by side. Most returnees have returned to areas under the control of their own community. The recent political crisis, combined with a series of attacks by Sunni armed groups targeting Shi'a neighbourhoods and pilgrims, has deepened sectarian tensions. Anecdotal evidence from UNHCR protection monitoring activities suggests that some Sunnis are leaving mixed and predominantly Shi'a neighbourhoods in Baghdad fearing retaliation. While previously many Iraqi Sunnis fled to Syria and Jordan to escape sectarian violence, reportedly most now seek to relocate within Iraq given tightened visa requirements in these countries and the ongoing violence in Syria.

Both Sunnis and Shi'as living in or returning to areas in which they would constitute a minority may be exposed to targeted violence on account of their religious identity. Both Shi'as in Sunni dominated neighbourhoods and Sunnis in Shi'a-dominated neighbourhoods have reportedly been subjected to threatening letters demanding that they vacate their homes. In cases where individuals do not comply, there are reports of violence or harassment, including killings."

146. At (b) on p.26 the Guidelines deal with members of religious minorities Christians, Sabaean-Mandaeans, Yazidis, Shabak, Kaka'i etc.

Kurds

147. As regards Kurdish ethnicity, no major report classes Kurds as a minority group in Iraq; Kurds are one of the second largest ethnic groups in Iraq, comprising some 20% of the population. Dr George estimates that there are 1.2 million Kurds living in Iraq outside the KRG (compared with 3.8 million in the KRG) concentrated in Baghdad, Kirkuk, Mosul and Diyala.

148. At [581] of his report, Dr Fatah notes that the security situation in the KRG is rather different from the rest of Iraq. The KRG is not plagued by daily insurgent attacks and bombings, such as occur in the central and southern governorates, although there are occasional car bombs, kidnappings and insurgent attacks. However, he says, the region is still a tribal society, and thus honour crimes, tribal feuds, and political assassinations are part of daily life in the KRG.

149. Dr George, at [141]-[148] of his main report says that Kurds have been targeted in Iraq south of the KRG zone, and there is a history of antagonism between the Kurds and the Sunni Arabs. Kurds living in Sunni areas have been attacked by insurgents as "collaborators" with the US occupiers and driven from their homes. He cites a number of instances of attacks on Kurds, particularly in mixed Arab/Kurdish areas in the north, where there are tensions over oil.

Former Ba'athists

150. According to the UNHCR 2012 Guidelines at p. 18, "[t]oday, members of the former Ba'ath Party or the former regime's armed forces or security and intelligence services are reportedly no longer systematically singled out for attack by armed groups", although "[t]hey may still be targeted in individual cases"…". The same report notes at p. 18, however, that the Iraqi Government continues to use accusations of "Ba'athism" to sideline political opponents and settle political scores and in October/November 2011 more than 600 individuals were arrested on charges of terrorism and alleged Ba'ath Party ties".

Population displacement

151. The Brookings Iraq Index November 2011 records that between October 2009 and July 2011 there had been 400,740 returns to Iraq. As at January 2011 there were estimated to be 1,343,568 post-2006 IDPs in Iraq. According to the UNSG Report, July 2011, approximately 1.75 Iraqis are estimated to be internally displaced or refugees in neighbouring countries. According to UNHCR's Iraq Returnee Monitoring, August-December 2011, the year 2011 saw a significant increase in registered returns compared to previous years. The reasons included stabilisation in the security situation and improvement in the economic situation. UNHCR's Monthly Statistical Update on Return – January 2012, lists the number of IDP returns for the period February 2011 to February 2012 as 212, 490 across all governorates. The UNHCR Iraq

Fact Sheet, July 2012 estimates the number of IDPs to be 1,332,382 and lists the number of IDP returns in 2012 up to that point to be 133,610, with Baghdad being the main governorate of return accounting for some 72%.

152. Whilst there continue to be new displacements, according to the 2012 UNHCR Guidelines, "new instances of large-scale displacement have decreased significantly in 2010 and 2011". In broad terms, this is as true of the five central governorates as of Iraq as a whole and where there are displacements in the former they often happen by moving elsewhere within the area, e.g. in October 2010 nearly 1,000 families were displaced within the Diyala Governorate from Jalawla, Saadiya and Qaratap to Khanaqeen, Kalar and Kifri. A significant number of IDPs originating in Kirkuk or Baghdad governorates have relocated within their home governorates or within one of the five central provinces. According to the UNHCR Iraq Returnee Monitoring August 2011 results, more refugees returned to Baghdad in 2011 than was the case in 2010 and 64% did so out of a positive response to improvements in the security and political situation. Further, in terms of the geographical distribution of IDPs, the IOM evidence indicates that the largest numbers are in Baghdad and the third largest in Kirkuk**.**

153. Socio-economic conditions for IDPs are dealt with below at [162]-[167].

State weakness and protection issues

154. According to the UNAMI Report covering the January–December 2010 period, significant problems remain with law enforcement and the administration of justice, especially in relation to the provision of and respect for due process and fair trial rights.

155. Citing the US State Department Report for 2010, published in February 2011, the 2012 UNHCR Guidelines state that:

> "In Iraq, the main perpetrators of persecution are non-state actors. However, protection by national authorities is unlikely to be available in most cases, given that the national authorities have limited capacity to enforce law and order. The ISF, which now have around 930,000 members are widely acknowledged as increasingly capable and united, reportedly remain vulnerable to corruption, and infiltration by militants, and continue to be themselves a major target of attacks. In addition, political disunity has reportedly limited the effectiveness of the ISP" (p.13).

156. At p.49 it states that in the KRG, however, generally the Kurdish authorities are able and willing to provide protection.

157. In reply to a question from the Tribunal the respondent has confirmed that her current position on protection has changed since June 2009 when her OGN stated at 3.6.8 that the authorities in Iraq were unable to provide sufficiency of protection. Her position since October 2010 has been that the security situation in Iraq has improved and that whilst ongoing violence in Iraq undermines the government's ability to

protect human rights, there is no general inability of the state to protect its population.

158. Dr George stated that he endorsed UNHCR's view as stated in its 2009 Eligibility Guidelines, with reference to central and southern Iraq, that "generally protection by national authorities will not be available, given that the national authorities have yet limited capacity to enforce law and order, the ISF may be infiltrated by radical elements and the judiciary is prone to intimidation and corruption".

159. Dr Fatah assesses the Iraqi authorities' capacity to protect those in need as weak. The police and security forces are ill-trained and infiltration by insurgents within the state security apparatus is extensive. In the political and security vacuum, non-state actors are operating actively across the territory. The absence of a centralised state enables conflict between regions, governorates and the central government and allows local rulers the freedom to create fiefdoms and solidify their own power bases.

160. Corruption is rife. Transparency International's 2011 Corruption Index, which measures the perceived levels of public sector corruption, placed Iraq at 175 on a list of 185 countries. The 2012 UNHCR Guidelines note that "[t]he persistent problem of corruption is said to prevent progress with respect to governance, public services and security in Iraq. Efforts to combat corruption are reported hampered, inter alia, by an inadequate legal and institutional framework, weak parliamentary oversight, ongoing attacks against anticorruption officials, as well as government interference and political pressures." All major reports note that the rule of law in Iraq is lacking, although branches of law enforcement are making progress. The judicial system is highly vulnerable to political pressure. Traditional systems of social and legal protection have been severely compromised by the conflict. The Economist Intelligence Unit paper January 2011 states that in addition to the malady of corruption, the unclear delineation of power between the government in Baghdad and the KRG, the local authorities and the tribally-oriented Awakening Movement "also hinders governance".

161. The Brookings Institute notes that a new Index of State Weakness in the Developing World, as of 27 October 2011, lists Iraq fourth out of 141 weakest states. On the Economist Intelligence Unit 2010 Democracy Index Iraq ranked 112th out of 167 countries (COIS, August 2011, 7.07). Another aspect of governance in Iraq concerns compliance with international human rights norms. Major reports, e.g. those by Amnesty International 2011 and Human Rights Watch 2011 and the US State Department Report 2011 continue to regard human rights conditions in Iraq as extremely poor, albeit there has been a slight improvement.

Socio-economic conditions

162. According to January 2009 statistics cited in the COIS, 30 August 2011, unemployment in Iraq is 18% and a further 10% of the labour force are part-time workers. According to the UNSG Report, 7 July 2011, the country's poverty index remains high (22.9%). The UNICEF Humanitarian Action for Children, 2011 report

states that 23% of Iraqis reportedly live on less than US $2 per day (cited in 2012 UNHCR Guidelines, p.165). Illiteracy is also high. There are ongoing problems with the delivery of essential services. Public services continue to be plagued by severe deficiencies, notably widespread corruption. Iraq's crime rate is high. According to Dr George, the great majority of Iraqis depend heavily on subsidised rations ([224]).

163. In the 30 June 2012 issue of Measuring Stability and Security in Iraq, a New York consulting firm is quoted as ranking Baghdad as last of 221 cities in a survey of quality of life and personal security, describing it as 'the world's least safe city'.

164. According to Dr George, there is an economic crisis and housing shortage afflicting Iraq. Persons without a family support network would encounter difficulties finding a means of supporting themselves and places to live (at [221], [61]-[71]). Access to jobs relies on corruption, patronage, nepotism or being a political appointee: a Wasta (person of influence) is needed.

165. The ICRC Report, 29 March 2012, states that Iraq is the country most heavily contaminated by unexploded munitions and access to public services, such as clean water and public health care, remains a challenge for many.

166. According to IMF and CIA World Factbook figures, Iraq's GDP has increased 11% in 2011, making it one of the world's fastest-growing economies. The January 2011 Inspector General Report commenting on reconstruction noted that the growth rate of Iraq's GDP has surged from a reported 2.6% in 2010 to 11.5% in 2011 and 11% in 2012, "placing Iraq amongst the world's fastest growing economies". Since mid-2009 oil export earnings have returned to levels seen before Operation Iraqi Freedom. As global oil prices remained high, government revenues increased accordingly. However the GoI remain hard-pressed to translate macroeconomic gains into an improved standard of living. Iraq still ranked only 161st in the world in per capita income (CSIS Study, "The Outcome of Invasion: US and Iranian Strategic Competition in Iraq, November 28, 2011).

167. According to the UN Development Assistance Framework Iraq, 2011-2014, nearly 100% of Iraqis receive food and non-food items through the Public Distribution System (PDS) although the system has met with challenges. The 2012 UNHCR Guidelines note evidence that the overall food situation has improved (p.51). The prevalence of food insecurity is estimated at 3%. However, poverty is still widespread in Iraq.

<u>International assistance</u>

168. Several UN and numerous international NGOs and local NGOs are present in Iraq, usually working alongside relevant Iraqi state agencies such as the Ministry of Health, Ministry of Human Rights and the Ministry of Displacement and Migration. Dr George describes the cumulative impact of these bodies as significant (at [228]).

169. According to an NCCI April 2011 Report, there are estimated to be between 8,000-12,000 traditional and modern "CSOs" (Civil Society Organisations) in Iraq which

provide support for local communities on religious, tribal, sectarian and ethnic lines. Their rapid growth has been fuelled by the international humanitarian community's pressing need to find local parties for project implementation. These organisations compensate to some extent for the inability of the GoI to provide social services and promote economic development.

170. In 2011 the US government provided more than 225 million dollars in humanitarian assistance.

Returns packages

171. The IOM set up its IOM-Iraq Mission in April 2003. Since then it has channelled more than $76 million into projects for Iraq. It provides emergency food and non-food items as well as integration assistance and durable solutions. It has established a Programme for Human Security and Stabilisation in Iraq, which aims for the urgent stabilisation of disenfranchised Iraqi families and communities by providing socio-economic reintegration initiatives as alternatives to armed conflict. It has a Regional Operations Centre which, among other things, assists voluntary returns and supports the Ministry of Displacement and Migration (MoDM) in developing its institutional framework.

172. Refugee Action have several programmes which provide assistance to returnees, such as AVRIM, which explains what support the returnee may be entitled to under the Assisted Voluntary Return Irregular Migrants Programme (AVRIM); a programme explaining what support is available under the Assisted Voluntary Returns for Families and Children (AVRFC), including financial support; and a programme explaining available support under the Voluntary Assisted Return and Integration Programme (VARRP), again including financial support.

173. Assistance is also available from UNHCR. $100 per adult and $50 per child, up to a maximum of $500 per family may be provided. UNHCR Return Integration & Community Centres (RICC) in Iraq provide support and referral services to government and other relevant bodies to assist in return and reintegration. UNHCR Protection Assistance Centres (PAC) and mobile teams provide free legal counselling and assistance in obtaining civil status documents as well as social counselling and other referrals. Further UNHCR assistance includes access to shelters and help with water and sanitation. UNHCR has been informed that the Government of Iraq (GoI) may provide assistance to eligible returnees (i.e. people who fled between 01/01/06 and 01/01/08, being displaced for not less than eight months outside Iraq; people who fled Iraq one year prior to 09/04/03 and returned after 09/04/03; formerly internally displaced returnees who fled from their place of origin in Iraq after 01/01/06 to 01/01/08 and registered with MoDM in the location of displacement). Such assistance may include up to 1 million Iraqi Dinars (Return Grant, proposed to be increased to 1.5 million as of May 2010) and assistance with utility bills and regaining public sector employment.

Returns to Baghdad International Airport (BIAP)

174. We received a considerable body of evidence relating to the treatment experienced by returnees from the UK on June 2010 charter flights in particular.

175. The issue was raised before the Tribunal in *HM1.* The evidence included a witness statement dated 8 July 2010, from Mark Walker, an Assistant Director in the Country Specific Policy Team in the UKBA. Among other things, Mr Walker said that the UKBA did not routinely monitor the treatment of individual returnees, and IOM did not monitor voluntary returns. There is a detailed description of the circumstances surrounding the 9 June 2010 and 16 June 2010 charter flights to Baghdad. With regard to the former, eleven people were returned, all on EU letters, detained at the airport, seen by a judge on 14 June and, in the case of one, released, in the case of the others, who were found to be from the KRG, flown to Erbil on the 16th, nine being released by the 21st, the last by the 28th. The periods of delay before release in the cases of the 16th June returnees (42 in total) were similar (10 days maximum). Restraint had to be employed on the flight in the case of three of the returnees. The entire boarding process was recorded and has been reviewed. The UKBA's Professional Standards Unit (PSU) was conducting an investigation into allegations of mistreatment of some of the returnees, as a consequence of media allegations, but no complaint of mistreatment had been made directly to the UKBA. Subsequently (14 December 2010), the PSU concluded that claims of mistreatment from six people made to UNHCR could not be substantiated to the required level of proof.

176. As regards issues of ill-treatment of individuals while in detention at BIAP, Karen Abdel-Hady, a Deputy Director in UKBA's Returns Directorate states (statement dated 22 November 2011) that UKBA does not have jurisdiction to conduct such investigations, though enquiries were made by UKBA's Migration Delivery Officer (MDO) based in Baghdad. These enquiries led to only limited responses, Iraqi Al-Amal stating that they were not aware of returnees facing mistreatment during detention at BIAP, but noting the significant number of accounts of detainees being abused while in detention in Iraq and the Danish Ambassador to Iraq stating that he had no information of such alleged mistreatment, though he was of the view that the level of human rights monitoring of detainees in Iraq had deteriorated over the last twelve months. A representative of the MoDM declined to comment on questions relating to the treatment of returnees and issues around human rights monitoring, and it is relevant also to note that Al-Amal said it was difficult for independent organisations to gain access to those in detention at the airport.

177. A letter from Amnesty International of 15 June 2010 raises concerns about ill-treatment of returnees on charters to Baghdad on 15 October 2009 and 30 March 2010. A BBC report of 26 June 2010 said that one of the deportees on the 9 June flight told the BBC that ten British returnees were being held in a single room without adequate facilities. Tori Sicher, now the solicitor for HM and RM, previously with IAS, set out evidence of what she was told by HH about detention after the 9 June 2010 charter flight (13 people in one small room, appalling conditions, no food, unable to sleep, 7/8 days' detention). HH also claimed to have had a gun pointed to his head and to have been threatened and others were kicked. In statements to a solicitor from a different firm, Sean McLoughlin, other detainees from the same flight claimed ill-treatment. In the context of Iraq as a whole, UNAMI (January 2011) refer

to evidence of torture and ill-treatment routinely taking place at the time of arrest and while in detention, and to lengthy detention without charge and bad conditions. The OGN of December 2011 says that MOI and MOD prisons and detention facilities in Iraq are likely to breach the Article 3 threshold and concerns are also expressed by the FCO, and by the USSD in its 8 April 2011 Country Report, concerning detention and prison facilities in Iraq. Dr George, in his Addendum Report of 26 March 2012 was told by a contact that, as of a year ago at least, general conditions in the detention facilities at the BIAP police station were very poor, including the fact that there was no special cell/room for women and children. With respect to the appellants, he expresses concerns about "possible delays and with possible risk of maltreatment during detention".

178. Dr Fatah's report contains an analysis based on an unspecified number of telephone interviews conducted in November 2011 with six asylum seekers who told him they had been returned to Iraq on various dates in 2010, including several who were on the 16 June flight. These led him to conclude that in practice the Iraqi authorities do not allow returnees to leave the airport unless they have a guarantor in attendance who can confirm their identity. Returnees who did not have their civil status IDs had to pay bribes at checkpoints in order to continue their journey. All his interviewees were detained until their identity was proven, some for a matter of hours, others for more than ten to fifteen days. Most food and water had to be bought by the detainees or guards had to be bribed to bring it to the cells. He notes, however, that on the basis of a 17 November 2011 letter from the British Embassy in Baghdad as a result of the introduction of biometric capture equipment (fingerprint scanners), returnees are no longer subject to further questioning after the immigration officials have processed them, unless biometric details require otherwise.

Returns and documentation

179. We asked for and received further written submissions concerning the position on return to Iraq via BIAP. The specific issue on which we requested further submissions was the approach of the Secretary of State in circumstances where an individual refused to cooperate in obtaining a laissez passer document on which they could be returned.

180. It is clear from the evidence identified in these submissions (which were updated to the last week in October 2012) that currently enforced returns of Iraqi nationals take place by air to BIAP, whereas voluntary returns in the case of people from the KRG can take place directly to that area. The current position, as set out in the third witness statement of Declan O'Neill, is that Iraqi nationals may only be returned on an Iraqi passport, an expired Iraqi passport, or a laissez passer document. The last-mentioned is a one way travel document issued by the Iraqi Embassy in London. It requires the cooperation of the returnee in order to be issued (see [219]). This represents a change from the previous position when the Iraqi authorities were prepared to accept EU letters.

181. From the British Embassy letter of 5 March 2012 and the subsequent letter from the Embassy of 8 April 2012 it is said that the procedure for documenting returnees is

relatively straightforward. The latter letter quotes the Ministry of Displacement and Migration (MoDM) as being satisfied that there is no risk of mistreatment or abuse of returnees at BIAP. The IOM concur, saying that the Immigration Officer checks the passport or travel document issued by the Iraqi authorities. If they are correct then the passenger can proceed and leave the airport. The point is that enforced returns from the UK are now pre-cleared during pre-clearance visits to the UK by Iraqi Immigration Officers so the risks are further minimised.

182. The letter goes on to say that since the introduction of the October 2011 Iraqi returns policy, there have been no cases of any UK enforced returnees being detained who have returned on a valid or expired Iraqi passport and that this has been confirmed by the IOM and Ministry of Interior. To date, it is said, no enforced returnees have returned using a laissez passer travel document as the Iraqi Embassy in London will not currently issue them to enforced returnees. Only voluntary returnees have returned using laissez passer travel documents and the Embassy has received no reports of them being detained on arrival. It is said that there are no detention facilities within the BIAP complex. The only circumstance in which a person would be detained would be if there was a judicial order or warrant for their arrest due to previous criminal activity. It is emphasised in evidence from the MoDM, the MOI, the IOM and Qandil (a Swedish human rights organisation) that there have been no reports of procedures involving ethnic or religious discrimination towards Kurds. Qandil have confirmed that all cases they have managed under the assisted voluntary returns programme have been processed satisfactorily.

Documentation and access to services

183. The relevant documentation required for movement around Iraq and access to services is described and analysed in some detail in *MK*. Paragraph 88 of *MK* summarises the Tribunal's findings on this issue. Dr George and Dr Fatah have, essentially, repeated to us their evidence to the Tribunal in *MK*.

Internal travel

184. As regards safety of internal travel, the 2012 UNHCR Guidelines deal separately with travel between the KRG and the rest of Iraq and then with travel within central and southern Iraq. On the former it is stated at p.49:

> "In terms of access, roads between the Kurdistan Region and central Iraq cannot be considered safe. Roads from Erbil, Dahuk and Sulaymaniyah to Kirkuk or Mosul are generally only safe when under the protection of the KRG forces, although attacks on civilians and security forces in areas under their control have also occurred. Roads that are not under the control of Kurdish forces are unpredictable and have reportedly been the site of a high numbers of attacks. There are several official checkpoints between the central part of the country and the KRG-administered area. There are also random checkpoints set up depending on the security situation. Further, the borders of the Kurdistan Region, including between its own governorates, have been observed to close without advance warning due to security concerns. Other areas along the unofficial border have been heavily mined in the past decade and are regularly patrolled by Kurdish Security Forces. Such conditions make it nearly impossible for

persons to cross into the three northern governorates through the countryside without danger. Therefore, entry through the major roads and their checkpoints is, practically, the only option available to most Iraqis seeking to enter the Kurdistan Region. In addition, there are regular flights from Baghdad and Basrah to Erbil and Sulaymaniyah, but a one-way ticket from Baghdad to Erbil or Sulaymaniyah costs 101,000 Iraqi Dinars (approximately US$85), an amount many Iraqis are not able to afford. Travelling from Baghdad or Basrah to Erbil or Sulaymaniyah by air is considered fairly safe and there have been no recent security incidents involving civilian aircraft. There have been infrequent indirect fire attacks on or near the Baghdad and Basrah airports, causing no casualties."

185. As regards travel within central and southern Iraq it is said at p. 53:

> "Travel by road within the central and southern governorates remains dangerous, especially at night. Roadside bombings and shootings, robberies, kidnappings and carjackings seem to remain daily occurrences, in addition to attacks on civilian, government and military vehicles on roads and highways in both urban and rural areas throughout the country. Travelling prior to or during religious festivities also involves a heightened risk as armed groups are said to aim at launching mass casualty attacks on Shi'a pilgrims on the road. Military operations among armed groups and the ISF/Sahwa continue mainly in the central governorates. Travelling is reportedly often impaired and delayed by ISF/Sahwa checkpoints and convoys, where there is also an increased risk of being harmed given the frequent targeting of the ISF/Sahwa. False checkpoints have also reportedly been erected to stage attacks. Freedom of movement is also impacted by checks at governorate borders, sometimes reportedly resulting in arrests. Moving near official government or military/police convoys is said to be particularly dangerous as they are a frequent target of armed groups, including by roadside bombs and "sticky bombs" attached under vehicles. There have also been incidents reported of roadside bombs hitting public buses or "sticky bombs" being placed inside buses or taxis or bombings at bus terminals. Movement may further be limited by curfews and vehicle bans, which can be enforced at short notice. Travel by air from Baghdad International Airport is said to have improved. No recent attacks on civilian aircraft have been reported, but there are reports of infrequent indirect fire attacks on or near the Baghdad and Basrah airports. Attacks also occur regularly on the road between Baghdad and Baghdad International Airport."

186. Whilst highlighting that roadside attacks remain a frequent occurrence, Dr Fatah notes that the central provinces are not as hazardous as during 2005-2008 although caution is still required when travelling in the area ([644]).

<u>Returnees from the west</u>

187. Dr George refers (at [80]-[81] of his report) to a UNHCR Report from 2004 concerning risk of kidnapping to Iraqis who return from Western countries as they are perceived as being financially privileged. He also cites a more recent (July 2009) report of the Danish Immigration Service, the Danish Refugee Council and Landinfo (the Norwegian equivalent of the COIS), which makes essentially the same point. SSI Amman (the United Nations security section) explained that, having lived in Europe for a while people walked, talked and dressed differently. They were perceived to have money and were easy to spot. Also they were considered to be easy targets

since they usually enjoy very little support from tribes of the receiving community in general.

188. Dr Fatah (at [621] of his report) was told by a businessman he interviewed that returnees to Kirkuk from the USA or the UK are regarded as traitors and spies by the Arabs and insurgents there, and thus they become automatic targets for insurgents. He also notes (at [705]) that arguably an individual returning after many years abroad might find it hard to re-enter their tribal network.

Provincial level

Tameem Governorate and Kirkuk

189. The home area of the first two appellants is Kirkuk, which is in the Tameem Governorate (also referred to frequently as Kirkuk Governorate). As already noted, the population of the Governorate is estimated as 1,395,000. The city's population is estimated as being between 0.9-1.6 million (975,000 according to Government statistics for July 2011, 902,019 according to recent IAU figures).

190. As was pointed out at [186] in *HM1*, most violence in the governorate is described as being linked to the as yet unresolved administrative status of Kirkuk, and related power struggles between the various Arab, Kurdish and Turkmen actors, accentuated by the fact that Kirkuk has huge oil reserves. This point is emphasised in particular in the April 2009 UNHCR Guidelines at [202] to [204]. The same report refers to the fact that insurgent groups such as AQI also aim to stir inter-communal violence by attacking proponents of ethnic/religious groups. There are concerns, which to an extent we have seen set out in the evidence of Dr Fatah, that tensions among ethnic groups over the unresolved status of Kirkuk could turn into another civil war. There are regular roadside bombings, shootings and occasional car bombs and suicide attacks. Kirkuk's Arab and Turkmen communities complain of harassment, intimidation, arbitrary arrests and demographic manipulation at the hands of the Kurds, who dominate the governorate's political and security institutions. The UNHCR's concerns were reiterated in the briefing note of 11 December 2009 and the 28 July 2010 Note on the Continued Applicability of the April 2009 Guidelines and in their 2012 Guidelines they note that the Governorate continues to be volatile.

191. The ICG report of 28 March 2011 entitled "Iraq Kurds: Confronting Withdrawal Fears" refers to the existence of strong tensions and politically motivated provocations aimed at sparking inter-communal conflict in areas with a rich ethnic mix such as Kirkuk City. The reports of the UN Secretary General for the UN Security Council of 31 March 2011, 7 July 2011, and 28 November 2011 refer to the number and range of incidents involving troop movements, terrorist attacks and car bombs killing and injuring civilians. It is said that the political and security situation and the disputed internal boundaries remains a matter of particular concern. The Danish Immigration Service Report of 10 September 2010 entitled "Security and Human Rights in South-Central Iraq", notes that the situation in Kirkuk is fragile and Iraqi security forces (ISF) and US Forces at the time had a strong presence in the area.

The presence of AQI and insurgent groups contributed to making the situation particularly volatile and there were reports that AQI was using children as suicide bombers or combatants in Kirkuk.

192. As regards the situation of IDPs, the IOM report of February 2010 entitled "Kirkuk Governorate Profile" noted that the disputed Kirkuk Governorate remained unstable, combining continued fears of violence with the already difficult living conditions faced by IDP and returnee families there. It is said in the report that, unlike other governorates in Iraq, post-2006 displacement in Kirkuk did not peak in 2006 and 2007 but rather displacement has been a gradual flow from 2006 to present, rooted in ethnic, political and territorial disputes. The number of families leaving their homes did increase in late 2007 and early 2008 before dropping lower once again. The IOM assessed that most families displaced in Kirkuk fled in fear after being targeted for religion, sect, ethnicity or political opinion. Over a third reported fleeing after receiving direct threats to their lives. The IOM, in its February 2010 assessment, considered that there remained a possibility of additional return flows to Kirkuk. It is said that gradual returns are occurring now and they may continue. It is said that, however, due to the contested nature of Kirkuk's land and population distribution, return is a complex prospect for those who wish to do so.

193. The IOM's November 2010 Profile report notes that over 2,000 families were displaced from Kirkuk in the period 2003 to 2006. IOM notes the precariousness of life for many of the families displaced in or returning to Kirkuk. Displacement from Kirkuk has decreased considerably since 2007, but continues to occur though in comparatively small numbers and many families are being displaced from one part of Kirkuk to another. 49% of IDPs in Kirkuk stayed within the province and intend to integrate in current places of displacement. The IDP population going to the KRG is relatively low. Nearly 60% of IDPs from Kirkuk assessed by IOM intended to integrate into their current location. 34% of IDP families living in Kirkuk intend to integrate into their current locations. According to UNHCR Iraq Operation Monthly Statistical Update on Returns April 2012, the total number of IDPs returning to Kirkuk in Sept 2011-Aug 2012 was 2,260.

194. Both Dr George and Dr Fatah consider that Kirkuk is volatile and violent and there are particular risk factors existing there. Dr Fatah notes that ethnic divisions run deeper in Kirkuk than elsewhere in the disputed territories and points to the level of violent attacks in Kirkuk in the last three months with a high number of police and civilian casualties. He finds that the tensions there are exacerbated by the existence of KRG and GoI security. Dr Fatah states that the undecided fate of the "disputed territories", Kirkuk in particular, and manipulations by various political factions have created chaos there. Kirkuk remains a fault-line in Iraq and at the epicentre of the Kurd-Arabs divide in Iraq. He considers that inter-ethnic tension has increased. Dr Fatah notes that Kirkuk is one of the centres of Kurdish national identity and the KRG has symbolically named it as its regional capital. At an interview with a Kurdish Kirkuk police officer in March 2012, Dr Fatah was told that most insurgents in Kirkuk are Arabs from outside the city who enter it in order to conduct attacks. He was told by a Kurdish businessman that Kurdish neighbourhoods of Kirkuk were much safer than others because the Peshmerga safeguarded them. He provides a

number of recent examples of violent attacks carried out in Kirkuk, most of which appear to have involved specific targeting, but several involved roadside bombs.

The USDD Report Measuring Stability and Security in Iraq, June 2010 records an average of 1.3 daily executed attacks in Kirkuk.

In the CSIS report of February 9 2011, figures for roadside bombs and car bombs in Kirkuk show a gradual decline from 919 roadside bombs and 69 car bombs in 2007 to 142 and 2 respectively in 2010. There are regular attacks and assassinations, mainly targeted against ISF and government institutions and officials, but also civilians. Kirkuk has recently seen a sharp increase in targeted abductions and killings of professionals

195. Dr George quotes from the Iraq Body Count (IBC) website in respect of the killings reported in and around Kirkuk City in the past twelve months. (The IBC states that in 2011 there were 232 deaths in Kirkuk.) Dr George, noting that in 2011 there had been 417 attacks in Kirkuk (Tameen), described it as "amongst the most violent locations in Iraq", although he adds that the level of violence there is not much different from those in other parts of central Iraq when account is taken of the size of its population. This figure amounted to 7% of the Iraqi total. In 2011, attacks in Kirkuk were 1.7 times the share that would be expected given the country's population (compared with between 1.4 to 1.8 times for Baghdad, Anbar and Mosul, 2.3 times for Diyala and 2.9 times for Salahuddin). The UN Agency Information Unit ("IAU") estimates that in Kirkuk in 2011 there were 280 civilian deaths. In an agreed Note of 6 June 2012 on Province by Province Casualties, the respondent states that on available figures "the level of civilian deaths for Kirkuk is roughly double the national average (as compared to 1.8 estimated by Dr George)".

196. In the 7 April 2012 FCO letter, Tameem is recorded as having one security incident a day. The 30 November 2011 Brookings Institute Report covering insurgent attacks per province February 2005-May 2010, shows a decline of violence in Tameem. The USDD June 2010 Report and the CSIS Report "Iraq and the US: Creating a Strategic Partnership", June 2010 show similar reduced levels.

197. As already noted, the 2012 UNHCR Guidelines refer to the continuing volatility of the governorate.

198. In *MK*, whilst describing Kirkuk as a "hazardous place" there being a good deal of evidence of random and targeted violence in that city (at [98]), the Tribunal did not consider that it revealed an Article 15(c) level in that city.

Baghdad Governorate and Baghdad

199. Baghdad is the home governorate of appellant HF. This governorate has a population of some 6 to 7 million (7,145,470 according to IAU); Baghdad City, the country's capital, has a population of approximately 6.5 million.

200. As Dr Fatah explains in his report, a number of factors contribute to the extent and nature of the security incidents and civilian casualties in Baghdad. He says that Baghdad has experienced violent attacks by various groups for a long time and the main reasons are it being the capital city, its being highly demographically diverse, and also the presence of Sadr City in Baghdad. (It houses the base of Shi'a cleric and politician Muqtada al-Sadr's popular support, and has been a breeding ground since the invasion for cadres of the Mahdi Army, the militia of Muqtada al-Sadr and Al-Sadr Trend, the Sadrist political bloc.) The UNHCR Guidelines for April 2009 refer to the fact that violence levels in Baghdad had significantly fallen since the last quarter of 2007, but it continued to be the case that armed troops targeted members of the ISF/MNF-I and the SoI, as well as government and party officials and also continued to target civilians, often in populated places such as markets, mosques, bus stations or restaurants. The May 2012 UNHCR Guidelines at p. 45 state that the large majority of attacks in Iraq take place in Baghdad. A number of attacks with high casualty numbers were reported in 2011 and 2012, resulting in scores of people killed and injured. These attacks are said to have taken place in Sunni, Shi'a and mixed areas across the capital. In addition, daily roadside bombs, shootings and "sticky bombs" attached to vehicles result in a high number of casualties. In 2011 Baghdad has also been the centre for popular protests. The ISF has reportedly responded violently, arresting, beating and even killing protestors. The same Guidelines note also that Baghdad has a high number of often politically motivated killings of security officials, government officials and employees, party officials, journalists, and professionals. Insurgent groups continue to aim at stirring sectarian violence. Most frequently, members of the ISF and Sahwa, government officials and employees, religious figures, politicians, professionals and LGBTI persons are targeted.

201. According to the UNAMI Human Rights Office/OHCHR Baghdad 2010 Report on human rights in Iraq, January 2011, some 2,953 civilians were killed during 2010 with some 10,434 civilian injuries, and the worst affected region was the Baghdad Governorate with 1,284 civilian deaths and 5,011 injured. In its annual report on Iraq, 2011, Amnesty International noted three particular incidents referred to, three coordinated suicide car bombs exploding in quick succession in Central Baghdad on 25 January, killing at least 41 people and injuring more than 75 others, a detonation by a woman walking with Shi'a pilgrims in Baghdad of an explosive belt killing at least 54 people and injuring more than 100 others, and an attack by the Islamic State of Iraq (which was responsible for the 25 January attack also), on a Catholic church in Baghdad where more than 40 worshippers were killed. Further incidents are described in other reports, some of which pre-date the hearing in *HM1*. The USDD Report, Measuring Stability and Security in Iraq, June 2010, records an average of six daily executed attacks in Baghdad province. At the hearing in October Mr Fordham produced an illustrative map of security incidents in the city. The US State Department Report for 2010 stated that in Baghdad in March to May the figure was six attacks per day. Figures given by Cordemann for the CSIS paper, "Iraq: Patterns of Violence, Casualty Trends and Energy Security Threats, 9 February 2011, gives a figure of just over five attacks a day on 28 February 2010. It details that violence in the areas north and west of Baghdad province largely involved and affected Sunnis, with some directed against Kurds and Christians. South of Baghdad it largely

affected Shi'as. Baghdad province was the main scene of violence throughout the US led phase of the fighting, violence which was largely Sunni versus Shi'a. Baghdad remained a key centre of bombing, certified attacks and crime. A non-exhaustive list of incidents post-dating 18 December 2011 US withdrawal is set out in Mr Fordham's skeleton to illustrate the current security situation in Baghdad. The IRIN report of 19 January 2012 refers to people considering fleeing as the violence increases, and suicide attacks, assassinations and bombings in Iraq have claimed the lives of at least 265 people and injured hundreds of others since 18 December. It is said that the attacks were mainly carried out by Sunni extremists from Al-Qaeda in Iraq (AQI) against Shi'a communities. The Sunni community complains that it has been marginalised by the Shi'a-led government. There are fears of a return to the days of 2006/2007 where the Shi'a/Sunni conflict left thousands of people dead and millions of others displaced. The examples set out are across a spectrum of specific targeting to roadside and suicide and sticky bombs. According to the Washington Institute for Near East Policy, February 2012, Baghdad is one of three areas of Iraq that are "sectarian melting pots" where Sunnis groups target Shi'a civilians as well as Sahwa members and violence is said to be "rising sharply" in these areas.

202. According to the FCO letter of 7 April 2012, the figure for Baghdad is 2-3 attacks per day. That is what is stated by the British risk mitigation company AKE in its analysis of 2011 trends. In 2010, UNAMI stated that of the 2,953 civilians killed during that year and 10,434 civilians injured, Baghdad Governorate was responsible for 1,284 civilian deaths and 5,011 civilians injured. Shortly after the December 2011 US withdrawal, the city was hit by a wave of high profile attacks against Shi'a districts. The IAU figures for deaths in Baghdad governorate in 2011 is 1,238.

203. Mr Staker cited the UN Habitat document "Urban Baghdad: Impact of Conflict on Daily Life" which states that:

> "Since the height of the violence in 2006-2007, conditions in Baghdad have improved. Nearly a third of those displaced have returned and conflict-related deaths have dropped considerably. Improved security has allowed greater freedom of movement and recreation in daily life. Access to jobs and services remains a challenge."

204. This same report also notes that whilst the conflict has taken close up a heavy toll on the city, causing one tenth of its population to flee during its height, the city's IDPs live in public buildings, old military encampments or improvised squatter settlements. Nearly a third of IDPs have returned and improved security has allowed greater freedom of movement. According to Dr Fatah, the majority of those who die or who are wounded in Baghdad do so in attacks designed to fuel the sectarian conflict. Those who are in positions of power or influence are particularly at risk, especially in the case of Ministry officials, police and intelligence officers and their family members (at [230]).

205. Dr George quotes from the 30 January 2012 issue of the US Department of Defence's "Measuring Stability and Security in Iraq", itself quoting from a survey by the New York consulting firm Mercer on the quality of life and personal security in 221 cities worldwide, describing Baghdad as "the world's least safe city". The IOM note that

81% of the families they assessed who were forced to leave their homes in Baghdad remained within the governorate. Return to Baghdad has been slow but continuous, and improved security in their area of origin was the most prevalent reason for families to return.

Diyala Governorate

206. It is said by the UNHCR that Diyala has been plagued by attacks against the ISF/MNF-I and widespread sectarian violence. It has a diverse religious and ethnic population and is of strategic importance, given its proximity to Iran and Baghdad, and there is also the issue of the unresolved status of so-called "disputed areas", in particular Khalaqeen and as a consequence the governorate has been contested since the fall of the former regime in 2003. The ethnic and religious mix of Sunnis and Shi'as, Arabs, Kurds, and Turkmen have made it a fertile ground for militant groups and the scene of brutal sectarian violence. When AQI was pushed out of Al Anbar in late 2006, it relocated its power base to Diyala, controlling much of the governorate including the capital. However, as a result of successive military operations by the MNF-I/ISF between June 2007 and May 2008, and supported by the SoI, AQI was largely pushed out of Diyala's main urban centres although it kept hold of more rural areas. Overall, violence in Diyala decreased significantly as of mid-2007, but AQI maintained its ability to conduct attacks through the governorate, including in the populated urban areas, while keeping strict control of rural areas, terrorising the local population with intimidation, detention, torture, and extrajudicial executions. Civilians were also targeted by mortar and small arms fire, assassinations and kidnappings. Crackdowns on Shi'a militias by the Iraqi government, in particular on JAM, have significantly reduced their presence and activities in the governorate. The underlying sectarian tensions in the governorate remained. There were ongoing tensions between Kurdish parties and the Shi'a coalition. Despite massive military crackdowns, Diyala remained volatile and continued to see car bombs and suicide bombings, often targeting members of the ISF/MNF-I and SoI, but also civilians. Dr George (at [147] of his report) quotes from a Kurdistan News Agency report of 2 March 2012, referring to the departure in the last week of at least 170 Kurdish families from the disputed Jalawla district in Diyala Province, leaving for other cities in the province, fearing terrorist attacks, and it is said that since the fall of the Ba'ath regime in 2003 more than 1,300 Kurdish citizens from the disputed areas of Diyala have been killed, and more than 1,700 families have been displaced, fearing for their lives. In 2011 Diyala experienced 551 attacks, comprising 10% of the Iraqi total.

207. The IOM in a report of November 2010 on Diyala said that it continues to be one of the most volatile and unstable governorates in Iraq, and it is described in the 2012 UNHCR Guidelines as reportedly among the most unstable governorates, with attacks mainly directed against security and civilian government institutions, but also civilians, e.g. in cafes or mosques. There have been attacks on Shi'a civilians and pilgrims as well as high numbers of targeted killings. Dr Fatah refers to the declaration in December 2011 by Diyala of itself as an autonomous region, which led to a mix of violent protests, arrests and mobilisation of state security forces. The bid for autonomy has been rejected by the GoI in Baghdad, and seems to have stalled,

though the issue has not gone away. Dr Fatah says that violence has remained high in the governorate.

208. According to an IOM February 2010 Governorate Profile, along with Baghdad and Ninewah, Diyala was one of the governorates that saw the highest rates of displacement following the 2006 Samarra mosque bombing, but Diyala was starting to receive returns and 85% of those returning cited the reason as improved security; albeit returnee families face many hardships and uncertainties on return. The IOM note that 44% of the families displaced from their homes in Diyala moved elsewhere within the governorate. Despite the difficulties in the governorate, families continue to return to their homes, most being prompted by improved security in their area of origin. There remain security issues, however, 42% reporting that they do not feel safe, or only feel safe sometimes.

Ninewah Governorate and Mosul

209. According to the UNHCR's April 2009 assessment, the Ninewah Governorate has a very diverse population of mostly Arabs, Kurds, and Turkmen, in addition to various religious and ethnic minority groups. A combination of the demographic make-up and the fact that large parts of the governorate are contested between the KRG and the central government make it a breeding ground for extremist groups seeking to destabilise the country. After AQI was forced out of most urban areas of Al Anbar, Diyala and Baghdad Governorates, Mosul City, where a large majority of the population is living, has become its last urban stronghold. There is only a limited presence of the SoI in the southern parts of Ninewah: the main reason for this is the Kurdish opposition to the establishment of an Arab Tribal Council. The relative security improvements in many parts of the country have not yet taken hold in Mosul, Iraq's second largest city, despite a wide scale military operation launched in May 2008 to root out AQI and other insurgent groups. Mass casualty attacks, kidnappings and targeted assassinations continue to occur on an almost daily basis. Ninewah's second city, Tal Afar, which is inhabited by many ethnic Turkmen, remains a stronghold of Sunni insurgents and sees regular attacks on the ISF, and to a lesser extent on the MNF-I. Civilians are targeted on a regular basis, mostly in public places such as mosques, restaurants and markets. Many attacks target Shi'a Turkmen in an aim to reignite sectarian violence. Due to the ongoing presence of Sunni extremist groups and the potential for ethnic political violence, the governorate of Nineweh remains highly unstable. In addition to suicide and IED attacks on the ISF/MNF-I, Ninewah continues to see significant numbers of targeted assassinations and kidnappings of security officials, local government officials, and employees, party officials, and officers in particular from the KDP/PUK, the IIP and the Iraqi Communist Party officers, religious figures and tribal leaders/SoI, members of religious minorities as well as professionals and journalists. Dr Fatah provides recent examples of violent attacks carried out in Ninewah. They serve, he says, to reveal the insecure and unstable environment of the governorate, and of Mosul in particular, which he says is one of the most unstable and unsafe places in Iraq today. Dr George says that in 2011 Ninewah experienced 803 attacks, accounting for 14% of the Iraqi total. According to the 2012 UNHCR Guidelines, Ninewah (particularly Mosul) continues to be volatile, with attacks mainly against ISF, Sahwa and

government institutions, but also civilians. There are regular kidnappings and assassinations, including members of the ISF, government officials and employees and tribal and religious figures and there are frequent reports of attacks on professionals.

210. The IOM has assessed that 1,123 families from Ninewah have left their homes due to water scarcity since 2006. Nearly half of the 17,216 IDP families originating from Ninewah assessed by IOM fled to other parts of the governorate. Most of those families were displaced in 2006 and 2007. Despite the harsh conditions and continuing sectarian violence, 113 of IDP families from Ninewah intend to return to the governorate.

Salah Al-Din Governorate

211. According to UNHCR, Salah Al-Din was one of the strongholds of AQI and other insurgent groups between 2004 and 2007. With the establishment of the SoI, made up of tribal members as well as former insurgent fighters, these groups have been weakened and the overall number of attacks decreased in 2008. The security situation remained unstable, however, as insurgents continued to have a presence in parts of the governorate. They engaged in battles with the ISF/MNF-I and SoI, and launched regular attacks on them. In addition, insurgents were said to be still capable of launching attacks against civilians, including sectarian attacks targeting minority Arab and Turkmen Shi'as. AQI is reportedly trying to re-infiltrate Samarra and recruit the city's unemployed youth. Salah Al-Din continues to see shootings, kidnappings and targeted assassinations of security officials, tribal leaders, SoI, and government and party officials. Dr George notes that substantial parts of the governorate form part of the disputed territories, which are among the most violent parts of Iraq. In 2011 Salah Al-Din experienced 695 attacks, comprising 12% of the Iraqi total. He also makes the broader point that the level of violence in the disputed areas is not much different from that in other parts of central Iraq when allowance is made for population distribution. Dr Fatah refers to a note on 27 October 2011 by the Sunni Arab majority of the provincial council to declare the province economically and administratively autonomous from the central government. The decision cannot be enforced until a public referendum is held and the move approved by the province's residents. He cites a number of attacks and killings in the province, as do the reports of the UN Secretary-General to the UN Security Council, dated 31 March 2011, 7 July 2011 and 28 November 2011. The 2012 UNHCR Guidelines note frequent security incidents in the governorate, which they describe as one of the most unstable governorates. Attacks are mainly directed against security and civilian government institutions, but also civilians, e.g. in cafes and mosques, and also attacks on Shi'a civilians and pilgrims, with high numbers of targeted killings.

212. The IOM assess that almost 1 in 3 of the families that were displaced remained in the governorate. The rate of returns has slowed. There was a significant fall between February and November 2010 in the numbers of IDPs from the governorate who wanted to return, which is seen as the effect of changes in the security situation and political uncertainties, though intentions varied according to the governorate to which they had moved. Over 50% of IDPs in the governorate when asked in

November 2010 wished to stay and integrate in their current location said yes, a significant increase over the 19% figure in February 2010.

Al Anbar Governorate

213. Although not one of the 5 central governorates we shall briefly summarise for completeness the situation in the only other central governorate, Al Anbar, which the 2009 Guidelines note as being Iraq's largest governorate and as having a predominantly tribal oriented society that is almost entirely Sunni Arab. It was a long time stronghold of AQI until local tribes established the Anbar Salvation Council in late 2006 and largely drove out AQI. Since 2007 security improvements have been significant as overall levels of violence have sharply decreased. Nevertheless, there remains a lingering AQI presence in Al Anbar which is capable of targeted assassinations and mass casualty attacks by suicide and car bombs. Most attacks occur in and around the city of Fallujah and in areas east of it towards Baghdad, as the proximity to Baghdad makes insurgent activities more permissive. Acts are mostly directed against the ISF, the MNF-I as well as members of the Awakening Councils, often resulting in civilian casualties. A number of examples of this are provided for the period November 2008 to February 2009, including car bombings and roadside bombs. Also there has been targeting of security officials, government and party officials, and religious figures on the part of armed groups. An example is given of an attack on a bus of Shi'a pilgrims on 12 September 2011 in a report dated 28 November 2011 of the UN Security-General for the UN Security Council. The governorate is said to be in dire need of reconstruction and public services but to date efforts in this regard have been slow and have met with resistance by the Shi'a-dominated central government. The 2012 UNHCR Guidelines state that Al Anbar has seen a surge in violence since the summer of 2009. There is speculation that ISI/AQI is attempting to undermine the provincial authorities and the ISF in order to increase tension between Sunnis and Shi'as. There were about 10 reported attacks per week in 2010 and 201 in the governorate. Attacks were frequently targeted, but bomb attacks in areas frequented by civilians, such as markets and a cultural centre, as well as attacks on ISF convoys and checkpoints often resulted in civilian casualties. The IOM has identified more than 7,000 families displaced after 2006 who have returned to the governorate. Improved security in their area of origin is frequently reported as a reason for returning.

214. In Al Anbar, a November 2010 IOM Governorate Profile said it had identified more than 7,000 families displaced after 2006 who had returned. Improved security is frequently given as the main reason. New displacements still occur, but on a small scale. The IOM has assessed 4,284 families displaced from Anbar, most of whom who relocated to Baghdad and Muthanna, wish to stay in their current locations.

Levels of violence in the five central governorates-overall picture

215. Iraqi government statistics give the following population figures for the relevant governorates as at July 2011: Baghdad 7,055,200; Tameen, 1,395,600; Ninewah, 3,270,400; Salahuddin, 1,408,200; Diyala 1,443,200; and Al-Anbar, 1,561,000.

216. According to Dr George at [172] of his report, in 2011 Ninewah experienced 803 attacks, amounting to 14% of the Iraq total. The equivalent figures were Salahuddin, 695, i.e. 12%; Diyala, 551, i.e. 10% and Kirkuk 417, i.e. 7%.

217. Dr George's report notes at [173] that in Kirkuk and Baghdad the levels of violence were 1.7 and 1.5 times greater than what would be expected given the proportion their population bears to that of Iraq as a whole.

218. At [172] he notes by reference to UN statistics that security incidents and attacks even in Baghdad (which in 2011 accounted for 32% of the total) had declined. Ninewah had the second highest number of attacks (14%) whilst Tameen was ranked sixth with 7%.

219. Dr George states that it is important to read the various indices of violence in the context of the ratio their numbers bear to the population of the particular governorate. At [173] he estimates that in this context the most violent governorate is Salahaddin, then Diyala and Muthania, followed by Kirkuk.

220. n a June 2012 note the respondent states that on available figures the level of violence in Baghdad is the same as the national average, although she accepts that for Kirkuk it is now about two times the national average.

KRG

221. As we have noted above, at [132], Dr Fatah's evidence indicates a greater degree of security in the KRG than elsewhere in Iraq. In the 2012 Guidelines, UNHCR describe the situation in the KRG as "relatively more stable", though it remains a potential target for terrorist operations. The general human rights situation in the KRG has improved in recent years, but observers report on continued abuses. As regards entry to the KRG, we consider this below, together with the relevant submissions, when we assess internal relocation in the light of the country guidance in *MK* and evidence that has been adduced subsequent to that decision.

SUBMISSIONS

The appellants' case

222. We do not propose to fully summarise the very lengthy sets of submissions we had from both parties, although we have found them immensely helpful in identifying relevant evidence and issues. Where appropriate we will refer to what they say, as we have done already, in relation to key points as and when they arise.

223. The appellants' case at the hearing was that the Tribunal should follow the position taken in the 2009 UNHCR Eligibility Guidelines in finding that in Iraq the Article 15(c) threshold is met in five of the central governorates. As revised in the light of the publication of the new UNHCR Guidelines of 31 May 2012, their position was that we should again adopt UNHCR's position which was now that whilst decision-makers should assess on a case-by-case basis whether an individual from Iraq

qualified for international protection, those from the five central governorates were "likely" to qualify by virtue of the high levels and the intensity of violence there.

224. In approaching our assessment Mr Fordham for the appellants contended that we should take an inclusive approach and be on guard not to strip out any of the recorded violence simply because it is classified as "targeted" violence. Civilians include everybody; you look at risk experienced by the citizenry as a whole; there is no subcategory to be deducted from them. Even targeted violence affects the civilians in the area; it degrades the security environment and leaves almost everyone living "in the shadow of violence".

225. As regards Article 15(c), Mr Fordham submitted that there were two distinct issues the Tribunal had to decide: (1) whether the Article 15(c) threshold of indiscriminate violence was met – or "likely" to be met - for ordinary civilians in the five central governorates; (2) whether even if the answer to (1) was no, there were certain categories of Iraqi civilians in respect of whom there was an enhanced risk. In this regard he drew attention to the acceptance by the CJEU in *Elgafaji* that there was a basic dualism to Article 15(c), in that it covered risk to civilians as such but it also operated a "sliding scale" such that whenever there was a relevant characteristic giving rise to risk, Article 15(c) could protect an individual even if the level of violence was less than needed to show risk to civilians as such. In this context he submitted that we should find that being a Sunni or Shi'ia or being a Kurd placed one in an enhanced risk category, at least when one faced return to a home area where one's religious identity or ethnic identity meant one was in a minority.

226. With regard to the question of return to BIAP in 2010, Mr Fordham urged us to find that the mass of evidence provided showed that there had been ill-treatment crossing the Article 3 threshold, in particular in respect of the June 10 and June 16 returns. The degree of concurrence between the various accounts as regards such matters as the number of detainees, the nature of the ill-treatment and the duration of the detention underlined the credibility of the evidence. It was clear that the Secretary of State was not able to investigate the alleged incidents at the police station near the airport. There was no good reason to suppose that the situation would be any different today. The conditions in detention near the airport breached the Article 3 threshold as identified in *MSS v Belgium & Greece* [2011] 53 EHRR2.

227. In relation to the UNHCR Guidelines, Mr Fordham urged that we find them to be authoritative or at least highly persuasive on the issue of Article 15(c) risks in Iraq. Given that UNHCR had concluded in 2009 that in the five central governorates the Article 15(c) threshold was crossed for ordinary civilians, and had made clear in its new 2012 Guidelines that those from such areas were "likely" to be in need of international protection, it was incumbent on the Tribunal not to depart from the UNHCR view unless there were highly compelling circumstances caused by a "step-change" analogous to the way in which cessation provisions operated under the Refugee Convention. The fact that the Strasbourg Court had not found the situation in Iraq or Kirkuk to reach the threshold of Article 3 was not conclusive since the CJEU in *Elgafaji* had made clear that Article 15(c) had an additional scope.

228. Whilst it may be that the violence in Iraq had levelled off in recent years, it was still above what is tolerable.

229. Although they did not initially seek to argue that problems with the safety of internal travel in Iraq gave rise to an extra dimension to risk of Article 15(c) harm on return, the appellants in further post-hearing submissions have argued with reference to the 2012 UNHCR Guidelines that for a person fleeing the effects of indiscriminate violence, it is of particular importance to consider the concrete prospects of safely accessing areas of Iraq not affected by general violence, including risk en route from IEDs and bombs throughout Iraq, and attacks on busy roads, and also the inherent difficulties of identifying potential safe zones, given the volatility and fluidity of the conflict.

230. As regards the individual appellants, with respect to HM and RM, it was submitted that they have no Iraqi documentation, and cannot safely pass into Iraq without the risk of detention, nor travel to their place of origin without risk of being refused at checkpoints for lack of proper documentation. This also affects their ability to survive in the absence of access to their PDS cards. In addition, as Kurds and IDPs, they are at risk in the central and southern governorates.

231. As regards HF, who is a Sunni of Arab ethnicity and from Baghdad, where he has family, internal relocation is not a viable option on account of the levels of violence in the central governorates and the position of IDPs elsewhere, and on account of his Ba'athist links.

The respondent's case

232. The respondent's case is that there was no reason to take a different view of Article 15(c) levels of risk in Iraq than the Tribunal took in *HMI* and that in any event the evidence as to the current position did not demonstrate that either in Iraq or in any of the five central governorates the Article 15(c) threshold was met. The latest UNHCR Guidelines of May 2012 seemed largely to recognise this. Even if the Article 15(c) threshold was met – or likely to be met - in one or more of those governorates, there would be scope for safe and reasonable internal relocation. There would be no risk on return at BIAP. So far as concerned the appellants, therefore: (1) none of the appellants would be at risk on return to their home areas in Iraq; (2) if, which is denied, they would be at risk in their home areas, then they could relocate anywhere else in Iraq including the KRG; (3) the intended route of enforced return would be by air to BIAP from where the appellants could travel in safety to their home areas; and (4) none of the appellants has established that he would face a real risk of treatment contrary to Article 3 ECHR on return to BIAP or in any place connected with the process of return. There were no serious problems with internal travel within Iraq.

233. The respondent did not accept that being a Sunni or a Shi'a Arab or Kurd or someone connected with the former Ba'ath Party sufficed to give rise to an "enhanced risk category". The respondent's position was that in order for this to be so it would be necessary to establish that those of Kurdish ethnicity or Sunni or Shi'a religion have a

materially higher risk than the generality of the population of suffering harm from indiscriminate violence; yet the appellants have failed to show this.

234. The Secretary of State's submissions urge the Tribunal to assess risk on return at the airport on the factual basis that only enforced returnees with an expired or current Iraqi passport would be returned. In relation to a returnee who refuses to cooperate with the process for obtaining a laissez passer and, in so doing, frustrates the removal process, the Secretary of State's intention in such cases is to enforce their removal once a document meeting the requirements of the Iraqi authorities becomes available, but in the meantime they cannot be removed. This is because without the necessary documentation there was no guarantee that they would be accepted by the Iraqi authorities in Baghdad.

235. The submissions point out that refusal to cooperate in obtaining a laissez passer would amount to a criminal offence under s.35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ("the 2004 Act").

236. It is clear, therefore, that a person who refused to cooperate in the obtaining of a laissez passer document would be at risk of prosecution under s. 35. It is submitted that this should amount to a strong incentive for individuals in such a position to comply with the re-documentation process. It is made clear that if a person does not cooperate he will not be able to be removed whilst the Iraqi authorities' position on documentation remains the same, but if the Iraqi authorities' position changes to allow return on EU letters as had previously been the case, then it is argued there would be no reason to suppose that Iraqi nationals would be returned to Iraq with any risk of detention let alone a real risk of Article 3 ill-treatment. The point is also made that it is now possible for voluntary returns to take place directly to the KRG and that is therefore an option for appellants such as the first two appellants in this case, which avoids entirely any question of how they would be treated at BIAP.

237. The Secretary of State's position is therefore that there is no risk of ill-treatment at BIAP because anybody returned there would be returning on documentation which would enable them to leave the airport without delay (subject to them being a person in respect of whom there was a judicial order or warrant for their arrest), and as such there is no risk on return.

238. Despite considering there to be no real risk of even short-term detention at BIAP for enforced returnees, the Secretary of State requested the Tribunal to make an assessment of risk of ill-treatment at BIAP for an Iraqi national returned there from the United Kingdom, bearing in mind there are a number of cases in the High Court raising the issue of ill-treatment at BIAP as an alleged barrier to removal, and in light of the accounts of ill-treatment given by failed asylum seekers returned on charter flights on 9 and 16 June 2010 and 6 September 2010.

239. In relation to the June 2010 charter flights, the first point made in the Secretary of State's submissions is that investigations by UKBA's Professional Support Unit (PSU) found that the returnees' stories of abuse during the returns process by UKBA officials and their agents were untrue. The point is made that despite having had the

opportunity to do so, none of the returnees has challenged those findings and, as was held in *R (Qader) v Secretary of State for the Home Department* [2001] EWHC 1785 (Admin), at [22], that makes it very difficult to accept them as witnesses of truth. .

240. The point is also made that most, if not all, of the returnees were individuals who were failed asylum seekers and as such were individuals who had been found not to have been credible in their asylum claims which diminished the likelihood of them telling the truth in this regard.

241. The point is further made that the appellants can point to no independent evidence to support the allegations of ill-treatment. It is contended that the only reports upon which they rely from, for example, UNHCR and newspapers, are based not on independent investigations but rather the unsupported allegations of the returnees. It is said that the extent to which the appellants rely on, for example, photographs and medical evidence relating to injuries allegedly received from ill-treatment by, for example, Mr AA (at B/121), none of this material demonstrates that any injuries were the result of mistreatment by the Iraqi authorities.

242. It is also pointed out that since the June and September 2010 charter flights, there have been a number of returns from Iraq, as detailed in the Secretary of State's evidence for these appeals and that despite British Embassy inquiries of a number of reliable sources, there have been no reports of detention in poor conditions following any of those flights. It is noted that the appellants do not rely on any evidence relating to such issues and it is suggested that that is strong evidence not only that the reports of the returnees on the June and September 2010 flights were not true but also that there is no risk on return at BIAP now. Accordingly, it is argued that the case for there being a real risk of ill-treatment at BIAP on return on a charter flight is not made out.

243. Consideration is also given in the written submissions to the authorities from the ECtHR relied on by the appellants. *NA v United Kingdom* [2009] 48 EHRR 15, which is cited as authority for the proposition that once an individual has adduced evidence capable of demonstrating substantial grounds for believing that there would be a real risk of the prescribed ill-treatment, the burden shifts to the respondent state to dispel any doubts about it, is said not to help the appellants since the only evidence they can point to is from individuals whose accounts are incapable of belief and hence they do not get over the first threshold. Even if they were considered to have passed that threshold, then they would fail at the second threshold for the reasons set out above. With regard to *MSS v Belgium* [2011] 53 EHRR 2, a contrast is drawn between the evidence that existed of poor conditions for reception of asylum seekers in Greece and the absence of reports on detention of returnees at BIAP. It is argued that the appellants are not assisted by their references to reports from other organisations or detention conditions generally in Iraq, as none of those reports deals specifically with the situation at BIAP and the treatment of the issue by the experts does not take the matter any further. Reference is made also to the argument made by the appellants that conditions of detention "are not disputed". That, said Mr Staker, was incorrect because the Secretary of State does not accept the evidence concerning the conditions in which returnees on the charter flights were held, for the reasons set out above.

The fact that the Secretary of State cannot launch her own independent investigation into the conditions in detention facilities associated with BIAP, since Iraq is a sovereign state, is not the same as accepting allegations made by others in respect of those conditions. It is argued that the evidence produced by the Secretary of State shows that she has in fact gone to considerable lengths to investigate the matter with a number of relevant and reliable interlocutors in Iraq, and it is asserted that the allegations are not credible.

244. The point is made in conclusion that the appellants are not assisted by their submissions on conditions in detention at BIAP. The point is, it is said, in effect academic, given changes in procedures and as such no issue of risk at the airport arises, but again it is reiterated that it remains very important for the Tribunal to deal with the question of detention at BIAP and the allegations on which the appellants rely concerning the June and September 2010 charter flights.

Submissions on internal relocation

245. On the first day of the hearing we said we saw no reason to depart from the findings of the Tribunal in its recent decision in *MK (Documents – relocation*) Iraq CG [2012] UKUT 00126 (IAC), though of course we did not rule out fresh evidence about such matters being adduced which had not been considered in *MK*. In *MK* the Tribunal concluded that it is wrong to say that there is, in general, no internal flight alternative in Iraq, bearing in mind in particular the levels of governmental and NGO support available. In full its country guidance conclusions were as follows:

> "General Conclusions
>
> 88(1) Since the lack of documentation relating to identity in the form of the Civil Status ID (CSID), Iraqi Nationality Certificate (INC) and public Distribution System (PDS) card (food ration card) is not ordinarily an insuperable problem, it is not a factor likely to make return to any part of Iraq unsafe or unreasonable.
>
> (a) The CSID is an important document, both in its own right and as a gateway to obtaining other significant documents such as the INC and the PDS. An inability to replace the CSID is likely to entail inability to access the INC and PDS.
>
> (b) Although the general position is that a person who wishes to replace a lost CSID is required to return to their home area in order to do so, there are procedures as described in this determination available which make it possible (i) for Iraqis abroad to secure the issue of a new CSID to them through the offices of the local Iraqi Embassy; (ii) for Iraqis returned to Iraq without a CSID to obtain one without necessarily having to travel to their home area. Such procedures permit family members to obtain such documentation from their home areas on an applicant's behalf or allow for a person to be given power of attorney to obtain the same. Those who are unable immediately to establish their identity can ordinarily obtain such documentation by being presented before a judge from the Civil Status Court, so as to facilitate return to their place of origin.

(2) relocation to the KRG is in general reasonable.

(a) Entry into and residence in the KRG can be effected by any Iraqi national with a CSID, INC and PDS, after registration with the Asayish (local security office). An Arab may need a sponsor; a Kurd will not.

(b) Living conditions in the KRG for a person who has relocated there are not without difficulties, but there are jobs, and there is access to free health care facilities, education, rented accommodation and financial and other support from UNCHR.

(3) Despite bureaucratic difficulties with registration and the difficulties faced by IDPs, it is wrong to say that there is, in general, no internal alternative in Iraq, bearing in mind in particular the levels of governmental and NGO support available.

(4) Whilst the situation for women in Iraq is, in general, not such as to give rise to a real risk of persecution or serious harm, there may be particular problems affecting female headed households where family support is lacking, and jobs and other means of support may be harder to come by. Careful examination of the particular circumstances of the individual's case will be especially important."

246. Mr Fordham put in lengthy written submissions in a skeleton argument on internal relocation, in which he relied heavily on section C of the UNHCR April 2009 Guidelines on Iraq. UNHCR's conclusion was that in general there was no internal flight alternative within the central and southern governorates of Iraq because of the ability of non-state agents of persecution to perpetrate acts of violence with impunity, given the ongoing levels of violence in mainly the five central governorates of Baghdad, Diyala, Kirkuk, Ninewah and Salah Al Din, access and residency restrictions, and the hardship faced in ensuring even basic survival in areas of relocation. The UNHCR noted that registration with the Ministry of Displacement and Migration (MoDM) was a condition for access to a range of basic services as well as government assistance. UNHCR also had concerns about access to food for IDPs, problems with housing, generally poor functioning and dilapidated water and sewerage systems and significant deterioration in the healthcare system. IDPs also had very poor access to income and employment. A significant number of IDPs surveyed in Iraq had not received any humanitarian assistance since their displacement.

247. The 2012 UNHCR Guidelines note, with respect to relocation to the KRG, that the influx of IDPs has had an important impact on the host communities, placing additional pressure on already strained public services, though at the same time the area has benefited from the immigration of professionals whose skills and disposable incomes boost the local economy, and unskilled IDPs have provided a source of affordable labour for the construction industry. A person fleeing a state agent of persecution would remain at risk, but others might be out of reach of their persecutors as generally the Kurdish authorities are able and willing to provide protection. It is said that in terms of access, roads between the KRG and central Iraq

cannot be considered safe. Entry through the major roads and their checkpoints is said to be, practically, the only option available to most Iraqis seeking to enter the KRG; flights are available but at a price unaffordable to many Iraqis. We deal with issues of documentation below.

248. The UNHCR say that most IDPs in the KRG live in rented housing, though some live in improvised dwellings, and cite health problems. IDPs in the KRG have not had access to their food rations through the Public Distribution System (PDS) since November 2011, which means they have to spend a high proportion of their income on food, often leaving them without other essential items such as fuel or furniture. IDP children can generally enrol in schools, provided their families are registered with the security department and have an information card, but there is a shortage of Arabic-language schools and a problem with overcrowding. Only those registered with the security department have access to employment, so generally they must have a sponsor, and access to employment may be difficult in the absence of family, tribal or political connections in the KRG. Also, employees are usually required to speak Kurdish. IDPs have access to the public health system, but there are problems of inadequate supplies, insufficient staffing and overcrowding of public hospitals. As regards relocation to southern and central Iraq, the UNHCR say that it is not feasible if the person is fleeing a state agent of persecution, and it is also not likely to be possible for a person fleeing an armed group. Lack of physical safety is a general concern for returnees, and generally protection by national authorities will not be available. Ethno-religious violence in the "disputed areas" (i.e. Kirkuk, Ninewah, parts of Diyala and Salah Al-Din) compounded by land and property disputes, high unemployment and drought needs to be considered in respect of possible relocation to those areas.

249. The Guidelines state that relocation for categories of individuals fearing harm as a result of traditional practices and religious norms of a persecutory nature may be problematic. Travel by road within the central and southern governorates is dangerous, especially at night. Lack of access to essential services such as food, drinking water, sanitation, electricity and education remains a problem. Housing may also be problematic. Nearly half a million Iraqis are reported to remain in more than 382 informal housing settlements, which are not connected to regular networks. Access to food including the PDS may be difficult, and access to education has reportedly been severely impacted by years of conflict. Access to health care is said to be particularly difficult in rural areas where many IDPs are located, and unemployment is a major concern for IDPs. Common ethnic or religious backgrounds and existing tribal and family ties in the area of relocation are said to be crucial when assessing the availability of relocation, as they generally assume a certain level of community protection and access to services.

250. As regards the northern governorates, it was noted that travel to them is fraught with risks, and there were bureaucratic and other difficulties in accessing the three governorates. Access to food via the PDS was uneven across the three governorates, and IDPs were not able to obtain food rations in their place of displacement. Access to housing was restricted in all three governorates and Kurdish IDPs did not have the right to purchase or own property and could only rent it if they had successfully

registered with the Asayish (security). There were also restrictions on access to public education and in certain areas, in particular in more rural or homogenous areas, relocation would be difficult on account of a serious risk of rejection by the community. At pp. 59 to 60 of the UNHCR Report a non-comprehensive list of groups of people who might not be able to find protection on relocation in the three northern governorates was set out. It was argued that there was no good, still less no cogent or compelling, reason for rejecting the UNHCR analysis.

251. Reliance was also placed on the expert reports of Dr George and Dr Fatah in respect of the individual circumstances of the particular appellants and more generally. Mr Fordham also referred to a letter of 8 April 2012 from the Foreign and Commonwealth Office concerning the process of returns and noting that the returnee requires either a passport, an expired passport, or potentially a laissez passer passport (if the Iraqi Embassy will issue such a document).

252. The skeleton argument also deals with issues concerning travel from Baghdad to the KRG and related evidence from Dr Fatah.

253. A further section of the skeleton deals with entry procedures into and residence in the KRG. Again reliance is placed on the UNHCR April 2009 Report and the evidence of Dr George and Dr Fatah. Criticisms are made of the Danish Immigration Service Report of April 2010 on the basis that it is said not to be reliable and that it should not begin to displace the UNHCR position, in particular with regard to the security measures introduced by the Kurdish authorities at their checkpoints. A more recent report from the Danish Immigration Service, based on the Fact-Finding Mission between 7 and 24 March 2011, maintains the earlier position in relation to entry procedures and the requirement of a sponsor. However, it is noted that there has been a more recent report, which was not before the Tribunal in *MK*, dated March 2012 and entitled "Joint Report of the Danish Immigration Service/UK Border Agency Fact-Finding Mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI) conducted 11 to 22 November 2011 Update (2) on entry procedures at Kurdistan Regional Government Checkpoints (KRG); residence procedures in Kurdistan region of Iraq (KRI) and arrival procedures at Erbil and Sulaymaniyah Airports (for Iraqis travelling from non-KRI areas of Iraq)". It is said that in this report it is accepted by the head of the Asayish that there is a varying requirement for a reference (or sponsor) and that the security procedures involve differential treatment for Arabs.

254. The skeleton argument also quotes from another report that was not before the Tribunal in *MK*, "Joint Finish-Swiss Fact-Finding Mission to Amman and the Kurdish Regional Government (KRG) area in May 10-22 2011", dated 1 February 2012. This is quoted as stating that anyone who does not originate from the KRG needs a sponsor. The report comments on entry procedures to the KRG and also addresses issues concerning Arabs in the KRG area and also the position of IDPs in the KRG. In the 2012 Guidelines, UNHCR say that since the fall of the former regime, the KRG authorities are very vigilant about who enters the area, and have introduced strict security measures at their checkpoints. It is said that an ad hoc and often inconsistent approach can be expected in terms of who is granted access, varying not only from governorate to governorate but also from checkpoint to checkpoint. A

sponsor may be required to be physically present at the checkpoint to secure the person's entering: in other cases a letter notarised by a court clerk attesting to the person's connection to the sponsor may suffice, or a telephone call by the officer at the checkpoint to the sponsor will be enough. It is said that single Arab males, including minors, are likely either to be refused entry to the KRG or to be allowed entry only after a lengthy administrative procedure and heavy interrogation. An information card to be obtained from the Asayish, is required for a person wishing to stay for more than 30 days, and a sponsor may be required in order to obtain an information card.

255. In his skeleton, Mr Fordham goes on to address issues of relocation in the central and southern governorates, quoting Dr George as stating that there is no part of central or southern Iraq in which the appellants in these appeals could live in safety due to the security situation in those parts of the country. Reference is also made to Dr Fatah's evidence in respect of the absence of any internal flight alternative in Iraq. With regard to the situation of IDPs in the central and southern governorates, the Internal Displacement Monitoring Centre (IDMC) Norwegian Refugee Council, is quoted in respect of the difficulties for the 2.8 million Iraqis internally displaced, referred to in its report of 4 March 2010. There are restrictions on the freedom of movement due to the security situation, and difficulties in replacing lost documents. Reference is also made to a report of the IOM, dated 18 March 2008 concerning problems experienced by refugees and IDPs in Iraq due to insecurity and problems with the infrastructure in Iraq. A further report of the IOM dated 13 April 2010 notes problems with shelter and basic services such as clean water, sanitation and electricity and noting that much of the Iraqi population depends upon the PDS food rationing system and that across the country 46% of post-Samarra IDPs had periodic access to rations at best. There were also serious concerns about access to healthcare. A further report of February 2011 from the same organisation refers to difficulties for the 1.6 million Iraqis who are displaced and the ongoing problems despite comparatively smaller rates of new displacements since the peak in 2006. There is reference to difficulties in access to PDS rations and the problem of the inability to transfer ration cards being a concern throughout Iraq. The Joint Finnish-Swiss Fact-Finding Mission also contains evidence about difficulties for unregistered IDPs. A contrast is drawn between the evidence of Dr Fatah, who said that IDPs could access "support" from the MoDM, and the experience of returnees whose evidence is set out at section 20.3 of Dr Fatah's report. Thereafter, the skeleton goes on to address the particular position of the appellants in this appeal.

256. With regard to *MK* it is said that not only is further and detailed evidence provided from the experts, but that it is clear that the Danish Immigration Service report of March 2012 and the Swiss-Finnish report of 1 February 2012 were not before the Tribunal in that case and therefore various of the findings of the Tribunal fell to be reassessed in light of the evidence adduced above.

257. In his oral submissions, Mr Fordham addressed the specific country guidance issues summarised at [88] in *MK*. He argued firstly, with regard to what was said at [88(2)], that there was an ambiguity where it was said: "An Arab may need a sponsor; a Kurd will not" and that it was unclear whether this was concerned with entry or

registration. It was argued that it was right that a Kurd would not need a sponsor to *enter* the KRG but that an Arab might well do, and might be refused entry in the absence of a sufficient family or support network. He referred to [57] of *MK* in this regard. It could not be said that there was an internal flight alternative to the KRG for an Arab, as at the point of entry they might need a sponsor and in the absence of family or contacts in the KRG, they would not get one. Also, they would not be able to access food rations. The fact that it was unlikely the third appellant, a Sunni Arab, would want to relocate to the KRG was by the way. There were relevant passages in the Danish/UKBA report at [3.08] and [4.01], [4.11] and [4.35]. It was clear from *MK* that access to services in the KRG was dependent upon having been authorised for residence. Paragraph 8.16 of the Danish/UKBA report supported this point. In addition, there was relevant evidence in the Joint Finnish-Swiss report at pages 61, 64 to 65 and 90. A person required to be registered in order to have access to services. A sponsor or reference would be required for residence. This was dealt with at [8] and various sub-paragraphs in the Danish/UKBA report. The evidence did not support the conclusion in *MK* that a sponsor was not needed. A Kurd from the disputed areas would be refused residence. Dr George referred to this in [18] and [40] of his third witness statement. Food rations were clearly important. Anyone, whether a Kurd or an Arab, who did not originate from the KRG would not be able to transfer their food rations. This would be even more so for a Kurd from the disputed areas. The situation was that there existed an essential safety net in the form of the PDS card but there was a refusal to facilitate its provision in the area of residence. That might not be too problematic for a person whose home area was close to the KRG and who therefore would be able to go there in order to collect their rations monthly, but otherwise a person would be bereft of subsistence protection and this would not be remedied by the profile of humanitarian assistance.

258. The evidence was that in the southern governorates, displaced people faced the prospect that one in three would be without their food rations and 85% would only have partial rations. This could be seen at [83] of *MK*. The Secretary of State argued that this would not make relocation unduly harsh even if the person had no family or network of friends. Paragraphs 84 and 87 of *MK* were striking with regard to the relevant governorates.

OUR ASSESSMENT

Confinement to the Article 15(c) issue

259. The burden of proof in these appeals rests on the appellants, albeit the standard of proof is relatively low and the seriousness of the issues at stake requires us to apply anxious scrutiny. In deciding this case we have to have regard to the entirety of the evidence. This being a CG case we have set out the enormous amount of evidence with which we have been presented in Appendix A.

260. Our primary focus in these appeals is strictly confined to Article 15(c) of the Qualification Directive, and a discrete issue relating to risk on return to BIAP. However, since this case deals with the current situation in Iraq it will inevitably be a reference point for decision-makers deciding asylum-related appeals brought by

Iraqis that are not confined to the Article 15(c) issue. In this context we would reiterate the observations made recently by the Tribunal in *AK (Afghanistan)* at [154]-[156] that in the general run of appeals decision-makers should ordinarily deal first with the issue of refugee eligibility and only deal with the issue of subsidiary protection (including Article 15(c) second. They should not deal with Article 3 until last:

> "154. That is so for two main reasons. First of all, decision-makers are obliged by the structure of the Qualification Directive to give primacy to the issue of eligibility for refugee protection; whereas Articles 15(b) and (c) are species of "subsidiary" protection: see recitals 3, 5. Second, to skip over refugee eligibility would be to lend support to the misconception that persons fleeing armed conflict cannot fall within the Article 1A(2) Refugee Convention definition. That has never been so, even if there has been recurrent hesitation about the criteria that should apply to such cases: see AM & AM (armed conflict: risk categories) Somalia CG [2008] UKAIT 00091, paras 17, 68.
>
> 155. In relation to why Article 3 ECHR should be dealt with last, the reason is simple. By virtue of Article 15(b) of the Qualification Directive, a person who can establish an Article 3 risk, will (save in one limited respect relating to heath cases) be able to show he is entitled to subsidiary (humanitarian protection) under 15(b). By contrast with Article 3 ECHR, subsidiary protection (humanitarian protection), including under Article 15(b), entitles the beneficiary to a legal status both at the level of EU law (Article 24(2) of the Qualification Directive) and in UK law (para 339C of the Immigration Rules).
>
> 156. As regards whether or not to deal with Article 15(b) or 15(c) first, it might seem that because the Court of Justice in Elgafaji has held that Article 15(c) has an additional scope to Article 3 ECHR that it would always be easier to address Article 15(c) first as having broader scope. But establishing subsidiary protection eligibility under Article 15(b) may sometimes be more straightforward than seeking to do so under Article 15(c). This may arise where, for example, the claimant falls within a risk category but cannot show a Refugee Convention ground (e.g. where he is at real risk of persecution/serious harm at the hands of a powerful criminal gang). It may also arise where there is a recent ECHR case that establishes comprehensively that there is an exceptionally high level of generalised violence in the claimant's country that amounts to a violation of Article 3 ECHR (see NA v UK Application no. 25904/07, paras 115-116; Sufi and Elmi v UK Applications nos. 8319/07 and 11449/07, paras 218, 250) and there is no valid reason to take a different view. Another problem is that whilst it is now established that Article 15(c) has an additional scope to Article 3 ECHR (a near equivalent to Article 15(b) of the Qualification Directive), the ascertainment of that additional scope may not always be a simple matter."

The expert evidence

261. We found Dr George's evidence of considerable assistance and attach significant weight to it. Nevertheless it is notable, we think, that in his oral testimony he agreed that the opinions he had expressed in his written reports on the levels of risk or of persons being "at risk" or "at real risk" did not necessarily mean anything more than that "some" risk existed. Similarly when he used the term "plausible" (e.g. at [40] in

relation to former Ba'ath Party members) he agreed this did not necessarily mean anything more than that the particular matter "could" have happened.

262. Whilst such usages are entirely understandable in the context of such a report, they limit the report's value to us as an assessment of levels of risk in respect of Article 15(c) eligibility. If Dr George's references about risk and real risk were taken to mean Article 15(c) risk, then his report would be at odds with a central tenet of the appellants' case. Whereas for the appellants it is only in the five central governorates that the Article 15(c) threshold is reached, his position would then be more wide-ranging: he described the security situation" in all parts of Iraq other than the KRG area" being "such as to pose very real risks to the population at large" (at [191]; see also [220]).

263. We also found Dr Fatah's evidence extremely helpful and attach significant weight to it also, particularly his oral evidence which was generally more ready to recognise nuances. As with Dr George, we note that Dr Fatah used terms like "risk" and "real risk" loosely. For example, whereas in his written report he spoke of a significant risk of kidnapping of returnees from the west, he was prepared to accept during his oral testimony that the evidence for saying this was a real risk was lacking and it was no more than "a possibility".

264. What the proceedings have revealed is that neither expert was able to give much assistance to the Tribunal in deciding the core issue of the levels of violence in Iraq beyond highlighting various aspects of the existing documentary studies dealing with civilian casualties and related matters. We would emphasise, however, that we do not mean these observations as a criticism of either expert, since it is not their job to apply legal criteria. And their presentation of relevant background evidence has assisted our understanding of trends. On one or two matters, in particular the issue of whether armed attacks in Iraq have become more targeted, we have preferred the evidence of Dr Fatah, but that is largely a function of the fact that he gave more sources and that his analysis was corroborated by them.

Initial observations

265. Mr Fordham seeks to rely on the fact that in *HMI* the Tribunal noted that the casualty figures for 2006 and 2007 suggested that the Article 15(c) threshold might have been met in parts of Iraq at that time and expressed particular concerns as to the situation in Mosul in Ninewah Province. Given such findings it was incumbent on the Tribunal, he said, not to find that the Article 15(c) threshold was no longer met unless there were compelling reasons.

266. However in *HMI* the Tribunal observed that it was not its task "to re-evaluate what the Tribunal in *KH* should have concluded as to the level of risk to civilians in early 2008" and in relation to the situation of Iraq in 2006 and 2007 and in Mosul in 2009 it stopped short of making any definitive finding on such matters. It saw its express task as assessment of the current situation. We entirely agree with Mr Staker that the attempt in the appellants' skeleton to invoke a principle of cessation in this respect, analogous to Article 1C of the Refugee Convention, is misconceived.

267. In the present appeals we wish to make it just as clear throughout that our concern is to assess the current level of Article 15(c) risk in Iraq. Of course, for such purposes evidence as to the historic situation is relevant and the previous findings of fact made by the Tribunal in both *KH* and *HMI* do afford helpful reference points in certain respects; particularly as we know precisely what body of background evidence they had before them when reaching their decisions. But plainly the fact that both were overturned by the Court of Appeal means that their findings on the evidence before them cannot be treated as starting points. The effect of the Court of Appeal decisions is that we must approach this case on the basis that there is no previous binding country guidance case on the application of Article 15(c) to Iraq.

Comparison with other conflicts

268. As regards evidence and submissions drawing a comparison between the conflict in Iraq and those in Afghanistan and Somalia, we take it into account but do not find it of much assistance, for much the same reasons as were given by the Tribunal in *HM1* at [258]:

> "258. Although we would agree that in principle it should be possible to achieve objective indicators of violence that can be applied in a comparative fashion across different countries, we have some doubts that current studies/surveys have yet resolved problems of different methodologies. Figures in any event only furnish a part of the overall evidence needed to assess Article 15(c) risk. So at best we would regard this particular comparison (which of course is only valid if at all in relation to the levels of violence in Afghanistan at the time GS was heard, not now) as a very rough guide and not one to which we should attach any significant weight)."

269. As to the reference made to the recent determination of the Upper Tribunal in *AMM and Others v Secretary of State for the Home Department* [2011] UKUT 00448, in that case the Tribunal decided that Article 15(c) should prohibit removals to Mogadishu unless the individual had connections with powerful individuals or belonged to a category of middle class or professional persons who could live to a reasonable standard. Outside Mogadishu, unless at a particular time fighting was in progress in a particular area in which 15(c) would apply to that area, in general 15(c) should not prevent removals. That decision is based on its own facts as is the case in all CG decisions. One cannot on its facts be used as an authority for another. But it does make the point that the whole circumstances including the lack of normal facilities which make life tolerable and which result from the national armed conflict must be taken into account.

The inclusive approach

270. In *HM1* at [75]-[84] the Tribunal explained the need to adopt an inclusive approach.

271. *AK (Afghanistan*) at [163], reaffirmed this approach. Having explained the need for proper allowance to be made for underreporting, the Tribunal added this comment:

> "…Further, whilst the inclusive approach is an indispensable safeguard against any artificial exclusion of relevant types of violence, it must not lead the decision-maker to run everything together and to overlook or blur important features of the ongoing conflict, for it is only by a careful delineation and understanding of these features that a proper assessment can be made about the levels of indiscriminate violence for Article 15(c) purposes. Ours must be a qualitative as well as a quantitative analysis. Thus, for example, in AMM at para 339 the Tribunal considered that, in addition to the level of civilian casualties, another factor leading them to conclude that in Mogadishu the Article 15(c) threshold had been crossed related to the "conduct of the parties" by reference to the highlighting in background evidence of widespread violations of international humanitarian law."

272. A further dimension to the inclusive approach is an understanding that even when focusing on civilian deaths and injuries it is necessary to take account of the impact of threats of violence as well as the physical violence itself.

273. In addition, where armed conflict has been ongoing for some time - and in Iraq it has been going for fifteen years - assessment must take into account its long-term cumulative effects, not just annualised figures.

The inclusive approach: other metrics

274. In line with our inclusive approach, we continue to take the view expressed in *HM1* and in subsequent country guidance cases dealing with Article 15(c) issues – see e.g. [162] – that in assessing Article 15(c) considerations it is valid to consider "metrics" other than civilian casualties/"battlefield deaths", two such other metrics being population displacement and the degree of state failure.

The UNHCR Guidelines

275. It has been the appellants' consistent position throughout this case that it was not appropriate for the Tribunal to depart from UNHCR's informed and cogently reasoned guidance assessment. At the hearing this was advanced in relation to the April 2009 Guidelines and subsequent UNHCR notes confirming their continued applicability. In subsequent submissions it was advanced in relation to the May 2012 Guidelines.

276. In previous country guidance cases the Tribunal has almost always attached very considerable weight to UNHCR guidelines on risk categories in particular countries, although it has seen the degree of weight to be attached to be dependent on a number of factors including whether or not UNHCR has a presence on the ground in the country concerned. A similar approach has been adopted by the ECtHR, e.g. in *NA v UK* and *Sufi and Elmi*.

277. Mr Fordham sought to persuade us that we should indeed accord a more primary status to UNHCR Guidelines so as to reflect its status and mandate, its detailed assessment and rigorous standards of due diligence such that it is not appropriate to

depart, "save for a cogent and identified reason", from UNHCR's guidelines. We recognise that, as highlighted by Sir Stephen Sedley in *EM (Eritrea) & Ors v Secretary of State for the Home Department* [2012] EWCA Civ 1336 at [41] that UNHCR, "is today the holder of an internationally respected office with an expert staff (numbering 7,190 in 120 different states, according to its website), able to assemble and monitor information from year to year and to apply to it standards of knowledge and judgment which are ordinarily beyond the reach of a court. In doing this, and in reaching his conclusions, [the UNHCR] has the authority of the General Assembly of the United Nations, by whom he is appointed and to whom he reports". We also recognise that in Iraq UNHCR's sources include IDPs and returnees who have made contact with UNHCR in the context of its monitoring operations as well as other agencies and persons in Iraq. However, we are unable to accept Mr Fordham's proposition, not out of lack of respect for UNHCR's considered views on country conditions or its immensely thorough and heavily footnoted 2012 Guidelines, but out of concern to ensure we discharge our duty to decide cases on the basis of the evidence and arguments presented to us; bearing in mind that in this, as well as most country guidance cases, we have a very comprehensive body of background evidence together with expert reports and detailed submissions to put alongside the UNHCR materials. We would be very surprised if indeed UNHCR took a different view of what should be our function, but in any event, as Mr Staker pointed out, Mr Fordham's submission on this matter is also contrary to authority: see *Mhute v SSHD* [2003] EWCA Civ 1029 and *R (Golfa) v SSHD* [2005] EWHC 2282 (Admin).

278. Observing that in *HMI* one reason why the Tribunal did not follow the (then) UNHCR Guidelines was because it considered UNHCR had strategic concerns (at [274]), Mr Fordham averred that UNHCR had not said its risk assessment on Iraq was affected by strategic concerns. Mr Fordham also questioned the Tribunal's doubting of UNHCR's consistency, given its heavy involvement in return and reintegration programmes in Iraq. They were voluntary, not enforced returns and it was only the latter that was in issue in this case. One could not regard UNHCR's Article 15(c) assessment as being flawed by reason of its support for internationally supervised returns.

279. We find it difficult to overlook altogether the apparent conflict in UNHCR's position in relation to risk on return to Iraq. In order to qualify for UNHCR "facilitation" of voluntary repatriation, applicants are required to fulfil various criteria, one of which is stated to be that "Conditions in specific areas of intended return in Iraq must be assessed by UNHCR as being sustainable". Yet it is not in dispute that sometime after February 2008 UNHCR chose to recommence assistance to Iraqi voluntary returnees even though: (i) its view (at least up to May 2012) was that because of the high level of indiscriminate violence the 5 central governorates were unsafe; and (ii) some of those assisted proposed returns to these governorates. We note that in *Al Hamdami v Bosnia and Herzogovina* 7 February 2012 the Strasbourg Court has also seen this apparent conflict as problematic. The Court observed at [51] that:

> "Although the Court is aware that the UNHCR, the UN and the IOM recommend that countries refrain from forcibly returning refugees to Iraq, they have stated that they are committed to providing assistance to those who return. Moreover, the Court observes

that their recommendations are partly based on the security situation and partly due to practical problems for returnees such as shelter, health care and property restitution."

The court went on to find that there was no generalised Article 3 risk in Iraq.

280. We acknowledge that UNHCR exercises considerable care in its assistance to voluntary returnees. In its literature UNHCR states that it provides assistance on an individual case basis to persons who, "being fully informed of the situation in their places of origin, chose voluntarily to return". We acknowledge too that UNHCR's assistance has not taken the strong form of "promotion" of returns, but only of their "facilitation". It must also be emphasised that inside Iraq UNHCR has well-established Protection and Assistance Centers (PACs) and Return, Integration and Community Centers (RICCs), now renamed Protection Assistance Reintegration Centers (PARCs) to assist returnees who decide to return. That demonstrates that UNHCR plays an active part in seeking to ensure those who choose to return voluntarily, do so in safety and with assistance.

281. We also accept that we are not in a position to assess to what extent if at all UNHCR's strategic concerns about orderly returns affect its assessment of the need for international protection under the Refugee Convention or Qualification Directive. We further accept that we are not in a position to know to what extent choices made by voluntary returnees are influenced by considerations such as the awfulness of their situation outside Iraq or their own imperviousness to risk. However, we would be wrong not to bear this dimension of UNHCR's work in mind. Whilst therefore we continue to have unanswered questions as to how UNHCR can reconcile its "facilitation" of voluntary returns with a position (such as was taken in the 2009 Guidelines) that certain areas of Iraq are unsafe, we do not propose to treat that as a reason for attaching any less weight to its assessment of international protection needs.

282. Following UNHCR's publication post-hearing of new guidelines, there was also an issue between the parties as to the nature and extent of the change in UNHCR's position in relation to Article 15(c) and its applicability. Mr Fordham accepted that the new Guidelines no longer supported the blanket "geographical" position that specific provinces could be identified as crossing the Article 15(c) threshold without more, although they did support, he contended, the position that those from the five central governorates were likely to be able to succeed under Article 15(c). Mr Staker argued that the new Guidelines not only do not set out any blanket position but they also do not specifically apply the Article 15(c) test. Their primary position was that all claims for complementary (subsidiary) protection have to be considered on an individual basis. If the Guidelines considered that there were specific governorates or towns or cities where Article 15(c) criteria are met at present, it was to be expected that they would have said so. Insofar as the new Guidelines suggest that certain asylum-seekers are "likely" to be in need of complementary protection, the Secretary of State considers that to be inconsistent with the remainder of the 2012 Guidelines which rely on a case-by-case basis of approach.

283. In relation to these submissions we have four responses.

284. First, we cannot agree with Mr Staker that the 2012 Guidelines no longer seek to give guidance on the application to Iraq of Article 15(c), although it is true they do not refer in terms, as was done in the 2009 guidelines, to the case of *Elgafaji*. Whilst the new Guidelines do not as such refer to Article 15(c), their plentiful references to complementary protection "on the basis of a fear of a serious and indiscriminate harm arising from that violence" clearly encompass Article 15(c). The introductory Note to the Guidelines refers to the Qualification Directive and comments that UNHCR's recommendations also touch upon relevant "complementary or subsidiary protection regimes".

285. Second, we cannot agree that the new guidelines are internally inconsistent because they maintain on the one hand that assessment must be on a case-by-case basis and on the other that those from areas where there is a high level and high intensity of violence are "likely" to qualify for complementary protection. It seems to us that in articulating both of these propositions UNHCR is making it clear that even though it no longer considers it justified to identify risk on the basis of "broad geographic distinctions" as such, it continues to regard geographical indicators (including ones related to governorates as well as sub-governorate areas) as of very significant weight in assessing risk in individual cases. The plain inference from its new guidelines is that if an individual is accepted as "formerly residing in *governorates*, districts, cities, towns, villages or neighbourhoods where high levels of violence continue to be reported", the likely impact on him is that he will be in need of complementary forms of protection [emphasis added]. This makes it clear that the level of violence in "*governorates*" as well as smaller geographical areas, can be a basis for deciding whether an individual qualifies.

286. Third, we are unable nevertheless to accept UNHCR's assessment in these new Guidelines that in any of the five central governorates current level and intensity of violence is sufficiently high to make it likely that persons from those governorates face an Article 15(c) risk merely by being present there as civilians, certainly not if the terms "likely" is intended to denote a real risk or reasonable degree of likelihood. We do not consider that the evidence we have as to the level of violence in each of these governorates supports such a conclusion. We note in any event that the statement in the second paragraph of the Summary (see above at [61]) about the likelihood of Iraqi asylum seekers being in need of complementary forms of protection is predicated on there being locations "where, at the time of adjudication of the asylum claim, high levels and a high intensity of violence continue to be reported…" – which must mean that if it is assessed that the level of intensity of the violence is *not* sufficiently high, the need for protection is no longer "likely".

287. Fourth, although the new UNHCR Guidelines do not specify anything about whether applicants from Iraq can fall within enhanced risk categories under Article 15(c)'s "sliding-scale", it would appear that they do not exclude that being a Kurd or being a Sunni or Shi'a (or being connected to former Ba'athist Party members) may qualify a person under Article 15(c) depending on the particular circumstances of the case. Whilst we do not disagree that in an individual case, being a Kurd or a Sunni or Shi'a (or being connected to former Ba'athist Party members) may, taken together

with other risk characteristics, place a person at Article 15(c) risk (and indeed, if those other characteristics are significant enough, at real risk of persecution or Article 15(b) serious harm), we do not consider that the evidence establishes that a civilian will be at Article 15(c) risk merely by virtue of being a Kurd or Sunni or Shi'a (or someone connected to former Ba'athist Party members).

Patterns of violence and trends

288. There are, of course, various question marks over the future security of Iraq including the unresolved issue of the referendum on Kurdish territories; ongoing Sunni concerns about being marginalised in the new political system; and the ability of the GoI to provide adequate security following the departure of close to 100,000 US forces and their allies since January 2009. Al Qaeda in Iraq (AQI) and other insurgent groups have shifted their forces to concentrate on fewer, larger, attacks. Their agenda remains using terror to destabilise.

289. At the same time, the evidence we have does reveal a number of trends. The Sons of Iraq (SoI) programme has done much to reintegrate Sunni elements into the political mainstream and to reduce Sunni extremism. There has been a significant decline in Shi'a militia activity due to political realignments. Sadr and the Sadrist Party maintain their militia but are now part of the Shi'a political alliance. Some extremist movements such as Asaib Ahl al-Haq (AAH) have accepted a partial ceasefire and held reconciliation talks. The March 2010 parliamentary elections did not see major upsurges. The phased withdrawal of US forces has not led to a return to generalised sectarian conflict and indeed appears to have resulted in a significant annualised drop in the number of security incidents, the average number of weekly incidents having fallen by December 2011 to below 50, compared with 300 seen in early 2009 (15 December 2011 Cordesman paper for CSIS). The International Crisis Group has assessed that the Iraq security forces are "faring relatively well" (COIS, August 2011, [10.05]). Whilst AQI's switch to fewer, larger attacks means that civilians are still at risk from their attacks, it is broadly recognised that its general military capacity and that of allied insurgent groups has been downgraded. According to Jane's Sentinel Country Risk Assessment for Iraq, 21 March 2011, terrorist and insurgent groups have been whittled down to a hard core. Patterns of ethno-sectarian violence also demonstrate a decline.

290. It seems to us that the appellants' submissions broadly acknowledged these developments: for example the appellant's skeleton highlighted the latest UNAMI Report dated January 2011 recording a rate of decline in civilian casualties, albeit at a slowed rate.

291. Whilst it would be possible to infer from evidence such as the above that violence in Iraq is continuing to decline, we consider it prudent to approach this case on the basis that presently violence remains broadly at the same level as in 2010 and 2011, since there continue to be some commentators who consider that the security situation has in fact deteriorated and we note that on the basis of figures for the first 6 -9 months of 2012 it is possible the figures for 2012 may show a small increase.

292. What is clear from the evidence is that in recent years there has been an increase in targeted killings. We are unable to accept the respondent's position (as most forcefully expressed in the July submissions) that the fact of more targeted violence per se means less indiscriminate violence. As noted earlier, targeted violence encompasses both specific and general targeting. As both parties acknowledge, some violence, albeit targeted, can harm civilians in significant numbers. Sometimes civilians themselves can be the target (see e.g. the observation in the 2012 UNHCR Guidelines at p.10 that "[u]nlike other armed groups, Al-Qa'eda in Iraq has reportedly deliberately targeted Iraqi civilians at large, in particular Shi'as, apparently with the aim of (re)igniting violence among Iraq's ethnic and religious groups"). Sometimes, although the target is a government building or police station, its location is such that many civilians become collateral victims. Further, as we have explained earlier, even carefully targeted killings that harm no civilians contribute to a climate of fear and insecurity which in an indirect way adds to the intensity of the violence. As noted by the Tribunal in *AK (Afghanistan*) at [207]:

> "We bear in mind, of course, that the targeted killing of particular types of civilians is not only murderous but also contrary to international humanitarian law and its occurrence degrades the security environment for ordinary civilians not in the targeted categories: the effects of civilian deaths, however caused, on any population may be extreme and long-lasting. Because targeted killing is one of "the varieties of ways in which civilians come to harm" (to borrow from the formulation in the Tribunal case of *[HM1]* [82]), it does indirectly impact on risk to ordinary civilians. That is why it can never be right to attempt some simple subtraction of targeted violence from the overall sum of indiscriminate violence…."

293. At the same time, we do not think that the increase in targeted violence is incapable of pointing towards a diminution in the level of risk to civilians. The fact, for example, that in 2011, according to Iraqi Government statistics of numbers killed, about 40% of Iraqis killed were ISF members, including 609 Iraqi police and 458 soldiers (UNHCIR 2012 Guidelines, p.15), does represent one indicator that civilians are not suffering harm in the endemic way that was apparent in 2006/2007.

<u>The situation province-by-province</u>

294. We have set out above the evidence concerning the five central governorates. That evidence does not, in our view, identify a level of violence in any of the governorates such as to cross the Article 15(c) threshold. Civilian casualties are not the only indice of relevance, but as a percentage of the respective populations of Baghdad and Kirkuk (see above [215]-[219]) we do not find the 2011 figures supplied by IAU of some 1,338 deaths in Baghdad and some 280 deaths in Kirkuk as indicative of the level of intensity of indiscriminate violence envisaged by the CJEU as being sufficiently high to engage Article 15(c) in relation to mere civilians.

295. In reaching this view we have also borne in mind such matters as the number and range of incidents, displacement and returns and the views of the experts and human rights organisations. As an example, we note relevant evidence in respect of Tameen and Baghdad, which the appellants say are two of the worst affected areas of Iraq. In

Tameen governorate which has a population of around 1,395,000, there are an average of 1.3 daily executed attacks in Kirkuk city. Displacement has decreased considerably. Gradual returns are occurring and there has been a significant reduction in roadside bombs and car bombs. In Baghdad governorate, with a population of 6-7 million, there is an average of 6 daily executed attacks. Nearly a third of those displaced have returned, the main reason for returns being improved security in the area of origin.

We bear in mind Mr Fordham's contention that the fact that the ECtHR in recent cases (see above [80] to [83]) has not found the level of violence in Iraq as a whole or Kirkuk to reach the Article 3 threshold is not conclusive as to the issue of risk of serious harm under Article 15(c) of the Qualification Directive. We agree with him that the latter has an additional scope: see *Elgafaji* [36] and *AMM* [334]. However, our findings as regards the Article 15(c) situation in Iraq as a whole and in the 5 central governorates have been made on their own terms.

Enhanced risk categories

296. There is some confusion over the term "enhanced risk categories". The appellant's original skeleton argument, for example, equates them with what are generally understood as risk categories (e.g. government officials and other officials associated with the GoI as set out in UNHCR's 2012 Eligibility Guidelines in their Introduction (see above [60]; whereas in the context of Article 15(c), what is relevant in terms of the *Elgafaji* sliding scale is individual characteristics and they are not necessarily limited in that way. Let us, nevertheless, consider the proposed categories/characteristics advanced by the appellants. Mr Fordham submits that even if we find that in the five central governorates the level of indiscriminate violence is not such as to place mere civilians at risk, we should find the picture changes once we factor in everyone's religious identity as a Sunni or Shi'a and/or their ethnic identity as a Kurd and/or former Ba'ath Party connections.

Sunni/Shi'a

297. There is evidence indicating that as well as targeting ISF and GoI employees, Sunni extremists have targeted Shi'as. This is noted e.g. in the FCO letter dated 7 April, 2012 and in the 2012 UNHCR Guidelines but such incidents have not risen to the extent that they demonstrate a real risk of serious harm to Shi'as in general. We observe that although the May 2012 UNHCR Guidelines emphasise the harm caused by the ethno-sectarian conflict between different communities, especially that between Sunni and Shi'a, they do not state there is a need for international refugee protection purely because a person is a Sunni or Shi'a and we do not consider that the evidence shows that there is a real risk of Article 15(c) harm arising solely because a person is a Sunni or Shi'a civilian. And even where concern is expressed about both Sunnis and Shi'as living in or returning to areas in which they would constitute a minority, the substance of what UNHCR is saying is not that Sunni Arabs living in majority Shi'a areas and Shi'a Arabs living in majority Sunni Arab areas "*will*" be at Article 15(c) risk but simply that "they *may* be exposed to targeted violence on account of their religious identity". In our judgement the other evidence

relating to Sunnis and Shi'as reveals a similar picture. However, whilst for the above reasons we find the evidence as a whole insufficient to establish Sunni or Shi'a identity as in itself an "enhanced risk category" under Article 15(c), we do accept that depending on the individual circumstances, and in particular on their facing return to an area where their Sunni or Shi'a brethren are in a minority, a person may be able to establish a real risk of Article 15(c). (They may, of course, also be able to establish a real risk of persecution under the Refugee Convention or of treatment contrary to Article 3 of the ECHR).

298. We would add that in coming to the above conclusion we have discounted Mr Fordham's contention in the appellants' skeleton argument, that when UNHCR refers to particular categories/profiles as at risk and to religious and ethnic minorities, this was intended to embrace Sunnis or Shi'as.

Kurds

299. As regards Kurdish ethnicity, we accept that discounting the 3.8 million Kurds in the KRG, there are some 1.2 million Kurds in Iraq and that this number constitutes a relatively small percentage of the population of central and southern Iraq, but being one of the second largest ethnic groups in Iraq, comprising some 20% of the population (concentrated mainly in Baghdad, Kirkuk, Mosul and Diyala), Kurds are unsurprisingly not classed by UNHCR or other major international bodies as a minority group in Iraq.

300. There is nothing in the 2012 UNHCR Guidelines to suggest that Kurds per se are an enhanced risk category. Some support is given to the notion of Kurds as an enhanced risk category by Dr George who in his written report referred to Kurds in central Iraq "remain[ing] at risk" [146]), and by Dr Fatah who in his report refers to Kurds in Baghdad being "more vulnerable" ([179]) but in neither instance did the experts seek to say that the number of attacks on Kurds were at significant levels. According to Dr Fatah, the number of Kurds in Baghdad is around 100,000–150,000, far fewer than previously. In Kirkuk, of course, Kurds are the largest ethnic grouping.

Former Ba'athists

301. It was also suggested in the written reports of the two experts that being a former Ba'athist or member of his/her family would be sufficient to place one in an enhanced risk category for Article 15(c) purposes. However, the evidence as a whole does not indicate that such persons are at real risk of indiscriminate violence. Rather, it indicates that whether former Ba'athists are targeted depends very much on their individual circumstances. Family members of former Ba'athists do not appear to be of concern as a group in their own right. As noted by UNHCR in its 2012 Guidelines at p. 18, "[t]oday, members of the former Ba'ath Party or the former regime's armed forces or security and intelligence services are reportedly no longer systematically singled out for attack by armed groups", although "[t]hey may still be targeted in individual cases"…". Given that in the wake of ongoing US troop withdrawal, thousands of people were arrested all around Iraq in an operation launched by the security forces against members of the banned Ba'ath Party (as noted by the OCHA

report of February 2012 and by the 2012 UNHCR Guidelines), persons who can establish that they themselves are former members of the Ba'athist Party may be able to show they will face targeting likely to qualify them either as refugees under Article 1A(2) or (if not) as persons in need of international protection under Article 15(b) or Article 15(c).

State protection

302. With reference to the evidence relating to the extent of state failure (one of the further "metrics" for assessing the level of indiscriminate violence) , it is clear that there are significant shortcomings in the ability and sometimes the willingness of the authorities in central and southern Iraq to protect their population. Iraq remains second in global indexes of failed states. At the same time, like the Tribunal in *HM1* at [211], we would observe that, this "metric" must be considered in the context of the existing levels of physical violence and the related threats they pose to the civilian population. The protection concerned is principally about that which a state is able to afford its citizens in a time of war and emergency; it is not principally about whether, for example, there is a criminal justice system ensuring punishment of offenders. In this context we observe that in terms of the basic task of the Iraqi state in providing security, the evidence indicates that the ISF is widely acknowledged as increasingly capable and united notwithstanding problems of corruption and infiltration by militants and political disunity. Bearing in mind that there is still a state of armed conflict in Iraq and that the situation is not one in which the state is required by international human rights law to guarantee all human rights (derogable as well as non-derogable), we consider that despite serious shortcomings the state authorities have been able to keep the level of indiscriminate violence significantly below what it was in 2006 and 2007. So far as concerns the significance of this "metric" in the context of Iraq, we note that it is not one upon which the appellants sought to rely to any significant extent.

Socio-economic conditions

303. We noted earlier evidence describing Iraq's socio-economic conditions as poor. At the same time, we identified sources referring to growing signs that economic conditions are improving and that reconstruction is taking place. The January 2011 Inspector General Report noted that the growth rate of Iraq's GDP has surged from a reported 2.6% in 2010 to 11.5% in 2011 and 11% in 2012, "placing Iraq amongst the world's fastest growing economies". At the hearing both experts accepted that despite the ongoing violence there was no evidence to show that in general people in Iraq faced food shortages or were prevented from going to work or school or obtaining access to medical treatment, although roadblocks and checkpoints in certain areas caused practical problems such as traffic congestion. It has also to be borne in mind that there are numerous international NGOs active in Iraq working in conjunction with state agencies and/or "CSOs" (Civil Society Organisations) and that in 2011 alone the US government provided more than 225 million dollars in humanitarian assistance: see above [157]-[159].

304. In the context of asylum-related appeals we must also bear in mind the evidence that UK returnees to Iraq have available return and reintegration assistance packages. Albeit designed to meet the short-term problems of return the effect of such packages is to enable returnees to start from a better position to those IDPs and others trapped below the poverty line, who live on less than US $2 a day.

305. In any event, as regards the situation of IDPs, whilst in Dr Fatah's words, life for many IDPs is "harsh", it is clear that there is no humanitarian crisis and that even if there are continuing difficulties of access, there are various sources of assistance, e.g. assistance centres and mobile units and various other agencies offering help with shelter, jobs and access to essential services. According to the IOM, 58% of IOM-assessed IDPs live in rented homes and only about 15% live in collective settlements, public buildings or camps. UNHCR is right to highlight that the IDPs, returnees and squatters who live in the settlements often face overcrowding and lack sanitation services, drinkable water and electricity as well as the threat of eviction and secondary displacement, but partly because of the assistance provided by agencies such as UNHCR it cannot be said that such persons live in conditions that are at the level of serious harm or ill treatment. Further, whilst regard to socio-economic conditions is a relevant consideration to assessment of Article 15(c) violence, it is hard to see that such conditions significantly affect the intensity of the level of violence.

Returnees from the west

306. In his written report at [155-6], Dr George referred to a 9 June 2004 Report by the UN High Commission for Human Rights and a July 2009 Report by the Danish Immigration Service, stating that Iraqis who return from western countries may well be exposed to dangers in relation to kidnapping because they are perceived as being financially privileged ([232]). Dr Fatah did not identify such Iraqis as being generally at risk but considered that time spent in the west could make the three appellants a target of extremist groups ([338]). We bear in mind that both experts accepted that their references to such persons being at risk did not necessarily mean anything more than possible risk. We are confident that if there was any significant occurrence of harm to such persons it would have come to the attention of relevant NGOs who would have been able to document it, whereas there are virtually no documented cases. In our judgement the evidence on risk to returnees from the West really does no more than establish a possible or remote risk. It does not establish a real risk or a reasonable degree of likelihood that returnees will face serious harm or ill treatment

Position in Europe

307. We have set out at [77-8] the state of the information we had regarding the approach to enforced returns of Iraqi failed asylum seekers taken by other European countries. Whilst this confirms that apart from the UK there are five other European countries which undertake forcible returns to Iraq, it does not specify what the approach or procedures are in other European countries.

308. We know that the courts of at least one Member State, Belgium, have considered the Article 15(c) threshold to be met at least in one part of Iraq: see above [78]. The appellants have cited a June 2010 judgment of the (First Instance) Finnish Administrative Court appearing to find that the Article 15(c) threshold was met in Iraq, which was upheld by the Finnish Supreme Administrative Court in December 2010. It is unclear from the decision whether the specific facts of the case may have influenced the decision, nor is it clear what materials by way of COI the First-instance Court had before it. Further, and in any event, whatever has been decided previously by governments/courts or tribunals in other Member States, we have to decide what the position is in Iraq now on the basis of the very comprehensive body of evidence before us.

309. We noted earlier ([79]) that there is a case pending before the ECtHR in Strasbourg, *YA v UK*, App.No. 65580/10, lodged on 10 November 2010 stayed to await the outcome of the *HM* cases. We do not understand the Court to have said anything in its proceedings so far to indicate what its view is of the substance of the case in relation to Article 3 of the ECHR and, as we have seen, it has not seen the fact that this case is pending as preventing them from expressly finding that the situation in Iraq generally or Kirkuk in particular does not meet the Article 3 threshold.

Documentation relating to returns

310. Earlier we noted evidence that the Iraqi authorities will now accept as sufficient documentation to permit admission to Iraq either (i) a passport; (ii) an expired passport; or (iii) a laissez passer document, albeit the last-mentioned is currently only accepted in respect of voluntary returnees. It would appear that with the replacement of the old system based on EU letters there have not been any detentions of returnees from the UK upon arrival in Iraq, since the new system ensures stronger evidence linking nationality and identity.

311. In response to questions from the Tribunal, Mr Staker confirmed that if a returnee does not possess either of the first two aforementioned forms of documentation, he will not be the subject of an enforced or compulsory return. That was confirmed in subsequent submissions. Mr Staker points out that a person who refuses to co-operate with the UK authorities in obtaining such documentation may be committing a criminal offence. That may be so, but for our purposes all that is relevant is whether if returned to Iraq with one of these forms of documentation an individual would be at risk of serious harm or ill-treatment. Absent any basis for considering that one of the three aforementioned forms of documentation would not be made available if the individual co-operated (e.g. where a country of origin refuses to document certain of its residents), it cannot be said that such persons are at real risk on return of persecution, serious harm or ill-treatment.

312. On 3 July 2012 the Guardian reported that the Iraqi Parliament has passed a motion banning the forced return of failed asylum seekers. Mr Staker makes the point in his Reply that there is no indication in the article that the "ban" is in any way binding on the Iraqi authorities. The Secretary of State had received no notification from the Iraqi authorities of any change in their policy on the return of failed asylum seekers,

and she intended to continue to return such people who met the documentary requirements outlined above. The appellants say it is for the Secretary of State to provide information to the Tribunal as to the operational impact of the Iraqi Parliament vote, rather than awaiting the notification referred to.

313. It is unclear to us precisely what is the effect of what appears to be a motion by the (or a part of) the Iraqi legislature. A letter of 4 October 2012 from the First Secretary (Policy and Projects) of the British Embassy, Baghdad, writes, inter alia, that the motion is non-binding, and that documented returns can continue. We note that according to the COIS report of August, 2011 at [6.03], even in respect of legislation, the Iraqi executive through the President or Vice Presidents can veto it and such a veto can only be overridden by a three-fifths majority of the Parliament. Taking the evidence as a whole, we conclude that the motion does not prevent documented returns. (Moreover, if despite current indications this motion for a ban were to become law, then the Secretary of State would plainly need to modify her returns policy in response.)

Risk on return at BIAP

314. In *HMI* the Tribunal had to address the issue of whether the evidence relating to charter flight returnees on 9 and 16 June 2010 demonstrated that there was a real risk of Article 3 ill-treatment on return at BIAP. *HMI* decided that such evidence failed to establish such a risk largely because of a lack of supporting evidence coupled with the difficulties in accepting the claims made by several Iraqis on these flights in the light of their apparent lack of credibility about certain other matters.

315. In relation to the June charter flights we now have significantly more detailed evidence than was available to the panel in *HM1*. This helps us in a number of ways. First it makes very clear that although BIAP itself does not have a detention facility, there is a police station some few kilometres away which BIAP officials have used in the past in order to undertake further inquiries of certain categories of returnees and is widely referred to in background evidence as the "BIAP police station". Second, it also makes clear that a significant number of returnees on the 9 and 16 June 2010 charter flights were kept in this detention facility. Third, there is a dearth of independent evidence as to the precise conditions at this detention facility. Neither party as we understand it disputes these three points.

316. It is also apparent to us that the various accounts of adverse conditions in this police station during the June 2010 returns before us, although based solely on what informants have told them, are nevertheless ones given at different times to different persons or bodies which broadly concur in what they describe about the physical conditions of detention. In addition to the accounts given to Ms Sicher, Mr McLoughlin and Dr Fatah, the account of RJH to UNHCR in respect of the June 16 flight adds further corroboration. Mark Walker's statement confirms duration of 7 days' detention for 10 KRG returnees on the 9 June flight, and 11 days' detention in the case of 12 KRG returnees on the 16 June flight. The fact that a PSU inquiry found insufficient evidence to substantiate claims of mistreatment by UK officials on the 16 June flight does not demonstrate that the detainees from that flight and the June 10

flight were untruthful in their accounts of the conditions of detention at this police station near BIAP. The inquiries made by UKBA's Migration Delivery Officer (MDO) in Baghdad are essentially inconclusive. We see force in Mr Fordham's submission that the absence of any reference to detention conditions at the airport in the May 2012 UNHCR Guidelines is not significant, as that report is concerned with Iraq in mid-2012, not in 2010 and in any event we would be cautious of treating such omission as necessarily considered omission.

317. We accept therefore that up to a dozen or so people from the 9 June flight were detained for some 7 days in a room of some 4 metres x 4 metres and fed once daily and had to sleep on the floor. As regards the June 16 flight, 30 or so people appear to have been detained for some 10-11 days in one room, and had to pay for food and water. There is a conflict in the evidence as to whether they were ill-treated by Iraqi officials (cf the evidence of RM and SA to Dr Fatah) but agreement that those detained had to sleep on the floor and that there were inadequate toilet and washing facilities.

318. Taking stock of this evidence we note first of all (and again) that it is considerably more than was before the Tribunal in *HM1*. Nevertheless, we bear in mind: (i) that we have not seen any response from the Iraqi authorities to such allegations; (ii) the country guidance issue we have to decide are concerned with the current position, not the 2010 position; and (iii) that we are being asked to consider conditions in detention without either party having assisted us in detail with the numerous Strasbourg cases dealing with detention conditions: see e.g. *Babar Ahmad and Others v UK*, App.no. 24027/07 [2012] ECHR 609, paras 166-179. Given these considerations, we are cautious of attempting any definitive findings. In relation to the main case on which Mr Fordham seeks to rely, *MSS v Belgium and Greece [*2011] 53 EHRR 2 and the cases it cites at [222], they only deal with the detention of asylum seekers by European states, not detention on return to the country of origin. In *MSS* there were a number of detainees who had to sleep on the floor; there was no access to the water fountain outside, and detainees were obliged to drink water from the toilet; in the sector for arrested persons there were 195 detainees in a 110 sq.metre space; in a number of cells there was only one bed for 14-17 people; there was a lack of sufficient ventilation; the cells were unbearably hot and access to the toilets was severely restricted; there was no soap or toilet paper and sanitary and other facilities were dirty. The Court attached some significance to the fact that the applicants were asylum seekers and hence particularly vulnerable. There were also complaints that the detainees were subjected to insults, including racist insults and of the use of violence by guards.

319. Against this background, all we would venture to say on the historic issue of the accepted detention by the Iraqi authorities of a number of persons returned by the UK on the June 2010 charter flights is that we consider that the evidence as to the likely duration of the detentions (up to 7 days on 10 June and 10-11 days on 16 June), the overcrowding and the lack of basic toilet and washing facilities indicates that it is possible that the Iraqi authorities may have violated the Article 3 rights of the returnees concerned.

320. As regards the 6 September 2010 flight, there are detailed witness statements from two persons both of whom describe ill-treatment in unpleasant conditions on return for a number of days. Again, in view of its close resemblance to the conditions described by those detained in June 2010, we consider the evidence about them also points to the possibility that the Iraqi authorities may also have breached their Article 3 rights.

321. As to whether the procedures now in place are significantly different, we do not have full evidence and what we have is not all one way. In his supplementary report of 26 March 2012 Dr George's contact stated that in respect of one year ago general conditions in the detention facilities were very poor. In a 3 November 2011 memorandum UNHCR states that persons who enter BIAP "will be held at the BIAP police station until their identity is established." The same UNHCR memorandum states that "UNHCR and implementing police staff have been monitoring the arrival of deportee flights at BIAP since early 2010. This has greatly enhanced the agencies' ability to monitor and interview deportees, enabling the provision of legal advice, assistance and referrals". UNHCR adds that deportees reported that checking procedures could sometimes continue overnight and that facilities were not adequate.

322. However, neither of these sources identifies ill treatment and that is consistent with much of the other evidence. In this regard we note that a number of sources, including UNHCR, have confirmed more recently that there have been no reports of ill-treatment by the authorities at BIAP: see UNHCR's response to an inquiry regarding returnees/deportees: documentation, assistance and conditions at BIAP, interviews between British Embassy, Baghdad, officials and the head of the Iraqi Parliamentary Human Rights Committee and the Iraqi Al-Amal Associates in September 2011. This is in addition to 2012 confirmation from both the Iraqi Ministry of Displacement and Migration and IOM that no mistreatment of returnees is occurring. The respondent notes that she made specific inquiries of the 17 participating states of the Intergovernmental Consultations on Migration, Asylum and Refugees whether any of them were accused of allegations of ill-treatment on return at the airport in Baghdad. All confirmed they were not aware of any such allegations.

323. We accept that the focus of this evidence concerns conditions at BIAP, but we have considerable doubts that these sources would have been unaware that there was a nearby police station which was used as a detention facility and would not have made mention of this facility being inadequate if it was.

324. At the same time, we recognise that in view of the limited and conflicting nature of the evidence we have about the post-2010 Iraqi procedures, we cannot make any firm findings. We can only observe that (i) we think it possible that there may well have been adverse detention procedures in use in June 2010 and September 2010 in the context of charter flight returns to Iraq from the UK; and that (ii) it remains unclear, however, whether any returnees seen by the Iraqi authorities to require detention following arrival at BIAP would today face similar conditions. In such circumstances, it seems to us that if the Secretary of State were to revert to her earlier

returns policy (which we have found may possibly have led to some returnees in 2010 being detained in adverse conditions), then it would be incumbent on her to demonstrate that Iraqi BIAP procedures making use of detention would not result in adverse treatment contrary to Article 3.

325. But all this is, and is likely to continue to be, academic since, in light of the evidence from the respondent relating to new procedures in force since October 2011 regarding minimum acceptable documents – there is no real risk (except possibly in respect of those who are the subject of a judicial order or arrest warrant) that an Iraqi national who has failed to show he is in need of international protection and who faces compulsory return would face detention either at the police station used by BIAP or anywhere else, since in effect they would have been pre-cleared and/or because they are in possession of a current or expired Iraqi passport or (if a voluntary returnee) a laissez passer document and so would be allowed to proceed from the airport without any detention. Of course, it is implicit in the Secretary of State's position that for so long as Iraqi asylum seekers who have failed in their international protection claims lack relevant documentation they will not be the subject of any attempts to enforce their removal; but we remind ourselves that such a scenario does not make their removal contrary to either the Refugee Convention or the Human Rights Convention: see e.g. *MS (Palestinian Territories*) [2009] EWCA Civ 17, [30]; *CG (suspension of removal-lawfulness-proportionality*) Zimbabwe [2010] UKUT 272, *SC (Article 8 – in accordance with the law*) Zimbabwe [2012] 00056 (IAC). Whilst our Article 3 ECHR assessment must consider the consequences of removal on a hypothetical basis, that must have regard to the realities of the procedures relating to documentation.

Returns to Erbil

326. Since Mr Staker confirmed to us that it is the intention of the Secretary of State to return each of the appellants in this case to BIAP, it is not strictly necessary for us in determining their appeals to deal with the issue of whether there is not now another option open to Iraqis faced with rejection of their asylum-related appeals, especially since Erbil is even now not proposed as a route available for compulsory (enforced) returns.

Safety of internal travel

327. In *MK* the Tribunal did not find the road between Baghdad and Kirkuk to be generally unsafe (see [94]). The respondent produced a number of documents including a letter from the FCO of 7 June 2010, a number of items from Iraq Business News and an IOM publication "Returning to Iraq" indicating that travel throughout Iraq by road, air or rail is generally safe. In opposition to this the appellants have sought in further submissions to argue that there is evidence, in particular in the UNHCR Guidelines, to show that travel within certain parts of Iraq is unsafe. Earlier we quoted at length from what is said in the 2012 UNHCR Guidelines about this subject. We would make two observations about the relevant passages in the Guidelines and the evidence to which they refer. First, they does not say in terms that the dangers of travel by road within central and southern Iraq are insuperable; it is

noted for example that travel is more dangerous at night, travelling is more dangerous prior to or during religious festivities, travelling near official government or military/police convoys is said to increase the level of danger. And in relation to roads between the KRG and central Iraq, it is only in respect of routes through the countryside that it is said to be "nearly impossible for persons to cross into the three northern governorates without danger". They go on to say without comment that "[t]herefore, entry through the major roads and their checkpoints is, practically, the only option available to most Iraqis seeking to enter the Kurdistan Region". Second, it is not suggested that the same dangers affect travel by air from BIAP and it is also said that "[t]ravelling from Baghdad or Basrah to Erbil or Sulaymaniyah by air is considered fairly safe and there have been no recent security incidents involving civilian aircraft". The thrust of the evidence is therefore that if due caution is exercised the main highways in Iraq can be travelled on in relative safety and that people are travelling freely around Iraq.

Documentation and access to services

328. We set out below at [330] a summary of the guidance given by the Tribunal in *MK* relating to documentation and access to services and our consideration of whether it needs modification.

329. In short, the most important document is the CSIS, as it is a gateway to obtaining other significant documents such as the INC and the PDS. There are various procedures which make it practicable for persons to replace a lost CSIS without necessarily having to travel to their home area to get it.

The future situation

330. Both experts gave their views on the likely future situation. We, of course, are only concerned with the current situation but must make a prospective assessment of risk. There are many different views on how events will unfold in Iraq. The CSIS Report, the Real Outcome of the Iraq War, 8 March 2010 considers that whilst "there is no one scenario that is probable", the most likely scenario as one of lower levels of continued sectarian and ethnic rivalry without going back to the civil war of 2005-2006. Dr Fatah, by contrast, said he fears an Arab-Kurd civil war. Reports reveal that there are fears by Iraqis of increased terrorism and economic deterioration. The May 2012 UNHCR Guidelines at p.61 cite the view of Elizabeth O'Bagay of the Institute for the Study of War, 2 February 2012, that "[p]olitics in Iraq remain paralyzed as deliberations among Iraqi political factions and parties continue to falter, despite a promising sign with Iraqivya's return to parliament. This backdrop has set the stage for armed conflict and the likelihood of sectarian war".

331. We recognise that the future in Iraq remains subject to many uncertainties. We agree with UNHCR that the security situation remains unpredictable and that it is too early to gauge whether the GoI can overcome the challenges posed by the full withdrawal of US forces, the ongoing power-struggles between Shi'as and Sunnis and the lack of settlement over disputed territories. We also acknowledge that the two experts in this case, Dr George and Dr Fatah, are not alone in fearing that there is a real

potential for new conflicts to break out, particularly between Arabs and Kurds. However, we consider that so far as Article 15(c) is concerned the most likely development is that the levels of violence will either continue to reduce or remain at around the same level as in 2010, 2011 and the first 9 months of 2012. As stated by UNHCR in both its 2009 and 2012 Guidelines, it is likely that "a persistent, low-level conflict" will continue to kill civilians at a similar rate for years to come ("an impassable minimum"). This comports with the CSIS Assessment in March 2012, "The Outcome of Invasion: US and Iranian Strategic Competition in Iraq", which (echoing the 2010 report) considers that although there are scenarios which involve increased violence, [t]he more likely scenario is one of lower levels of continued sectarian and ethnic rivalry struggle without going back to the civil war of 2005-2008". Whilst incidents in January-September 2012 demonstrate that insurgents still have the will and capability to launch multi large-scale bombings resulting in high numbers of civilian deaths, the evidence continues to indicate that their capability to carry out such attacks is diminished.

Internal Relocation

332. We remind ourselves that in order for there to be a viable place of internal relocation decision-makers are required to be satisfied that it is both safe (i.e., in the context of Article 15 of the Qualification Directive, that there is no continuing real risk of serious harm) and reasonable in all the circumstances: see Article 8 of the same Directive. We also remind ourselves that in its May 2012 Eligibility Guidelines UNHCR at p.52 summarised its position in its Introduction (see above [60]) as being that it "considers that internal flight options are often not available in Iraq due to serious risks faced by Iraqis throughout the country, including threats to safety and security, accessibility problems and lack of livelihood opportunities."

MK and internal relocation within the KRG

333. In considering the possibility of internal relocation, we have the recent determination in *MK*. We must follow that decision unless there is fresh evidence which can challenge in any way its conclusions. It is to be noted that Drs George and Fatah produced reports generally discounting internal relocation as a viable option which were summarised in annexes to the *MK* determination and that their reports for this hearing cover much the same ground. Both in its 2009 Guidelines and its May 2012 Guidelines, the UNCHR has also urged caution in relation to the availability of internal relocation. However, we consider that the salient difficulties said to affect relocation were considered by the Tribunal in *MK* and we would cite first [87] of the determination:

> "87. We bear in mind Dr Fatah's warning, set out at paragraph 77 above, concerning the difficulty of a broad approach to the issue of relocation to/within the GoI governorates. We note the bureaucratic nature of the registration processes which, as Mr Hussain points out in paragraph 58 of his closing submissions, seem increasingly aligned with those in the KRG. The very significant numbers of IDPs (estimated by the IDMC in March 2010 at 2.8 million) face the kind of difficulties we have set out above, and it may be (IDM May 2009) that IDPs are

> not being registered in all governorates. However, the types of difficulty we have identified are not such, in our view, as either to entail that there is no internal flight alternative in Iraq, or that relocation is, in general, unreasonable. The levels of support that we have identified, from the UNHCR and the Iraqi government in particular, including the fact that two-thirds of IDPs appear to have PDS cards valid in their governorate of residence, support us in this view. Where an IDP is unregistered, and hence is unlikely to have a PDS card, and is unable to access family, governmental or NGO support, it may be that relocation would be unreasonable, in particular, of course, if they faced a real risk of significant harm in their home area and could not therefore be expected to return there to renew their PDS card. The particular circumstances of a returnee may therefore be such as to make relocation unreasonable."

We would next remind ourselves of the Tribunal's country guidance at [88] (reproduced word for word in the headnote) which we have already set out above at [245].

335. In his skeleton produced after seeing the determination in *MK*, Mr Fordham sought to challenge the conclusions and to draw attention to what he submitted were cogent reasons for doubting the general applicability of internal relocation. He accepted at the hearing that he was not able to challenge the conclusions reached in *MK* unless he could identify cogent fresh evidence or show that there had been a failure to have regard to existing material.

336. We consider first Mr Fordham's argument that there is an ambiguity in the guidance in *MK* as to whether the statement that a Kurd would not need a sponsor applied to entry only or also to registration. If one turns to the section of *MK* dealing with this issue, it can be seen from [54] that the Danish mission in March 2010 was told that any Iraqi national with an Iraqi ID was free to enter the KRG and free to reside there after registration at a local Asayish office. The point was made by both Dr Fatah and Dr George in evidence in *MK* that there was no consistent policy across the KRG borders and there were also inconsistencies between different governorates and different checkpoints. Dr Fatah, as recorded at [53] of *MK*, said that families and individuals wishing to live in the KRG were required to provide a sponsor. The general tenor of Dr George's evidence seems to have been that, depending on the checkpoint, where a person seeks an information card they may be asked to have a sponsor present or to provide a letter from the sponsor, notarised by a court. We take this from [47] of *MK*. The Tribunal concluded at [57], as summarised at [88], that a Kurd wishing to enter the KRG would not need a sponsor or guarantor, although an Arab might.

337. If there is an ambiguity, then we consider it lies in Dr Fatah's evidence in *MK*. On the one hand, he is recorded at [53] as saying that Kurds did not need a guarantor and later on in that paragraph as saying that families and individuals wishing to live in the KRG were still being required to provide a sponsor. The Danish mission was clear that any Iraqi national with an Iraqi ID was free to enter the KRG and to reside there. In the circumstances, drawing this evidence together as the Tribunal did at [57], we consider that the conclusion that any Kurd wishing to enter the KRG would not require a guarantor/sponsor although an Arab might was on the one hand

clearly open to the Tribunal, and on the other hand may properly be said to be a finding covering both entry and residence.

338. In any event, it is appropriate to go on and consider the evidence that was not before the Tribunal in *MK* to see if the position can be said to be any different from that as concluded in *MK*. The principal reports are: the Joint Finnish-Swiss Fact Finding Mission to Amman and the Kurdish Regional Government (KRG) Area, May 10-22, 2011 dated 1 February 2012 (the Finnish/Swiss report); the, Joint Report of the Danish Immigration Service/UKBA Fact Finding Mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI), conducted 11-22 November 2011 (the Danish/UK report); and the 2012 UNHCR Guidelines.

339. At [1.02] of the Danish/UKBA report, the director of an international NGO in Erbil is quoted as saying that all Arabs, irrespective of ethnic origin or religious orientation, are free to enter the KRG through the external checkpoints by presenting their Iraqi civil ID card, and said that there were thousands of persons of Arab origin living in the KRG, many living with their families, whilst others had come there to work, including individuals. At [1.08] of the report, the Director of the Bureau of Migration and Displacement (BMD) of the Ministry of the Interior of Erbil, explained that at present there were approximately 40,000 IDP families from southern and central Iraq and the disputed areas residing in all three of the northern governorates. The Director went on, as recorded at [1.09], to remark that the economic impact of the influx of IDPs on the KRG had been significant and that this indicated that many IDPs were wealthy. He referred also to the fact that there were middle class people, skilled workers and labourers looking for unskilled jobs in the KRG. The Head of Private Bureau of General Security (Asayish) said that people displaced by violence, i.e. IDPs, continued to enter the KRG and mentioned that, for example, recently 80 people from central Iraq and Mosul had come to the KRG for protection. According to figures from the IOM publication "Review of displacement and return in Iraq" dated February 2011, as recorded at [1.13] of the report, in Erbil governorate 29.47% of the IDP population was of Arab ethnicity. In Sulaymaniyah 70.80% of the IDP population was of Arab ethnicity but in Dahuk only 3.90%.

340. As regards security procedures, the head of the Asayish explained, as recorded at [2.04], that the Asayish had good levels of cooperation with Iraqi intelligence and there were two security lists in operation, the "black list" which included people who had an arrest warrant outstanding for their detention, and a second list, the "stop list". It was said by the officer who had overall operational responsibility for the Mosul/Erbil checkpoint that around 30 people per month were arrested. This would seem to involve people who were on the black list, but if there was only a suspicion that someone might be involved in criminal or terrorist activities they would only be denied entry. These would be people on the "stop list". The head of the Asayish was recorded at [2.16] as saying that as regards the documentation required to prove a person's identity, this could include the CSID or their passport, and it might be sufficient to provide only a driving licence or similar document proving a person's identity and Iraqi citizenship, as the system is computerised and a person already on the database will be logged with their photo and name recorded onto the system. International organisation A and Harikar NGO (the UNHCR Protection Assistance

Partner in Dahuk) said that the only documentation needed at a KRG checkpoint was the CSID. At [2.28] the General Manager of Kurdistan checkpoints in the Kurdistan Regional Security Protection Agency Security General Directorate, KRG Ministry of Interior Erbil, is quoted as saying that after a person had given information about their identity to the Asayish they would undergo a second procedure at the checkpoint to apply for the appropriate entry card and once the relevant card had been issued they would be free to travel throughout the KRG, including between the three KRG governorates, without being required to show any further form of documentation. There is no reference there to the requirement of a sponsor. Nor was there any reference by PAO (Public Aid Organisation, the UNHCR Protection Assistance Centre partner in Erbil) to any requirement for a sponsor, in their evidence recorded at [2.31] of the report.

341. At [3.08] the head of the Asayish is recorded as saying that the policy which required a person to provide a reference at the KRG external checkpoint was abandoned about two or three years previously, although there might still be some instances in which a person was asked by the Asayish at the checkpoint to make a telephone call to someone they knew, to verify their identity. This state of affairs was effectively confirmed by the officer who had overall operational responsibility for the checkpoint, during a tour of the Mosul/Erbil checkpoint. At [3.10] the director of an international NGO in Erbil is recorded as saying that persons of Arab origin do not need a [person to provide a] reference to be present at the checkpoint. He and the Harikar NGO both noted that there was no requirement for a reference to be present at a KRG checkpoint in order for an Iraqi from outside the KRG to enter.

342. Following from what he said as recorded at [3.08], the head of the Asayish is recorded at [4.01] as explaining that individuals not from the KRI (i.e. KRG) might be asked by the Asayish at the checkpoint to telephone an acquaintance in the KRG to verify their identity. When asked if an individual not from the KRG and who knew no one there would be able to pass through the KRG external checkpoint, he said that this would depend on the individual and the circumstances in the case but in some instances such a person would be viewed with suspicion, however such cases were very rare. It was said that fewer than 30 people per month across all the KRG external checkpoints in all three governorates might be denied entry purely on the grounds that they were considered suspicious for some reason. As regards the issue of differential treatment of people from different ethnic or religious backgrounds, international organisation B said, in respect of people without genuine identity documents, that a Kurd without personal ID documents might be treated more sympathetically and permitted entry because they would normally know someone in the KRG but that a person of Arabic origin without genuine documents to identify themselves would not be permitted entry. The officer with overall operational responsibility for the Mosul/Erbil checkpoint said that the procedures applied at the entry checkpoints did not discriminate against any ethnic group, and Arabs, Turkmen and Yazidis would be treated no differently from Kurds seeking to enter the KRG.

343. The same officer is quoted as completely rejecting the statement from UNHCR quoted in the Danish 2011 report, that Arabs, Turkmen and Kurds from the disputed

areas would face difficulties/rejection at KRG checkpoints. He pointed out that most of the new houses being bought in the KRG were being purchased by Arabs and not Kurds and that Arabs from Mosul were moving to the KRG not temporarily for work but also to live. He also added that the vast majority of Iraqis passing through the KRG checkpoints were Arabs. PAO said that people from the disputed areas who were of Turkmen or Arab ethnicity would be questioned for a long time at the KRG external checkpoints before they would be allowed to enter, because the disputed areas were more suspicious of terrorism. That organisation also remarked that there existed ethnic discrimination at a limited level, but it was not systematic and they were aware that the KRG was trying its best to change this. He gave the example of some managers of companies in the KRG who were known to them as experiencing difficulties in attempting to bring skilled labourers into the KRG from the GoI who would be required to bring all Iraqi documentation and would still be questioned thoroughly. IOM Erbil stated that they had never heard of discriminatory policies being applied at the KRG checkpoints. The director of an international NGO in Erbil, as noted at [4.41], remarked that Iraqis of Arab origin would normally be required to undergo greater scrutiny than others, but the procedure was unproblematic and did not require that a referee should be present at the checkpoint.

344. It seems to us from this report that there is even less evidence pointing to a requirement for a sponsor for anyone than was the case before the Tribunal in *MK*. Indeed, on this evidence it would seem that in general nobody is required to have a sponsor, certainly not a Kurd and only in uncommon circumstances an Arab.

345. We turn to the Finnish/Swiss report. This confirms the inconsistency in guidelines on entry practices between the three northern governorates and the absence of any published instructions or regulations on entry procedures. There is reference at page 59 to several NGOs and the UNHCR having surveyed IDPs at different times concerning entry procedures to the KRG region at different checkpoints, and, for example, it is said that the need for a sponsor/guarantor has essentially ceased at a Dohak governorate entry checkpoint but that even at one checkpoint congruency can lack at different times. This emerged from a meeting with the Harikar NGO. At page 60 there is confirmation of the view set out above that Arabs are screened more carefully than other passengers at the checkpoints. It is said elsewhere on that page that anyone wishing to enter the KRG area who does not originate from the region typically needs to know someone there (a so-called sponsor/guarantor) or have a letter of reference from an employer in the KRG area. It is said that a sponsor is needed if the person wants to stay in the KRG area for more than ten days or wants to register and seek residency in the region. It is also said subsequently that according to several sources a sponsor/guarantor is often not needed nowadays. Instead, the person wanting entry needs to have a reference from someone in the KRG area. None of the above information is sourced, unlike the information in the Danish/UKBA report. The UNHCR is quoted as being of the opinion that the terminology has changed but the sponsor system is basically the same as before. It is also said, according to what is described as "one source" that there is a general policy of not issuing information cards to single Arab men and women because of fears of terrorism by the authorities.

346. We have set out at [244] the relevant views of the UNHCR in its 2012 Guidelines.

347. We do not think that this evidence taken as a whole advances the position as set out in *MK*. We prefer the Danish/UKBA report because it is very much more detailed and is also sourced. Much of the information in the Finnish/Swiss report is not sourced and it is very much briefer. We bear in mind, of course, what is said by UNHCR about documentation and the KRG, in particular with regard to the sponsorship issue, but that has to be seen in the light of the evidence as recorded in the Danish/UKBA report, from Harikar and PAO, both UNHCR Protection Assistance Partners.

348. Taking the evidence as a whole, we consider that if anything, it tends to show that no-one needs a sponsor, rather than, as was concluded in *MK*, that a Kurd will not and an Arab may. By needing a sponsor we refer not only to entry but also to residence in the KRG. However, since we accept that what we identify is a trend in the evidence rather than a fixed conclusion, we do not propose to go beyond the guidance in *MK*, and on this evidence we are confident that it can properly be endorsed.

349. The next point in respect of which Mr Fordham invited us to revisit the findings in *MK* is that summarised at [82(2)(b)] of *MK* concerning the viability of living conditions in the KRG for a person who has relocated there. It was concluded that though there were difficulties, there were jobs and there was access to free healthcare facilities, education, rented accommodated, and financial and other support from UNHCR.

350. In his submissions, Mr Fordham argued that, in the absence of registration of residence, life was precarious in the KRG. He referred to [8.05] and [8.07] of the Danish/UKBA report. There it was made clear that a person could not reside in the KRG without obtaining an information card, and a person who stayed for less than a month would only have to report to the nearest Asayish office and provide an address where they were residing in the KRG. The Finnish/Swiss reporters were told that an IDP without registration was at risk of refoulement to central Iraq.

351. With regard to food rations, Mr Fordham quoted from the Iraq Thematic Country of Origin Information Report of 4 April 2012 at [7.13] and [7.14] which, itself quoting from IRIN, in a report of 21 February 2011 entitled "Iraq: Government Vows to Improve Food Aid System" said that more than half of Iraq's 29 million people depend on the Public Distribution System (PDS), according to the Trade Ministry. Mr Fordham quoted from Dr Fatah's report where he said that anyone who did not originate from the KRG could not transfer their food rations. Difficulties in this regard were noted in the "Report of the representative of the Secretary General on the human rights of internally displaced persons, Walter Kälin", dated 16 February 2011. Mr Fordham also quoted from [7.25] of the Country of Origin Information Report, noting that the Harikar NGO was quoted in the Danish/UKBA report as stating that Kurds from the disputed areas would find it very difficult to transfer their PDS cards and this was related to political factors regarding the future of the disputed areas and whether they would become part of the KRG. It was said that in

the future, Arabs from southern and central Iraq or the disputed areas would need security clearance from the Asayish in order to have their PDS cards transferred, and this procedure was lengthy and could take up to two months.

352. The evidence in this regard, therefore, does not go quite as far as Dr Fatah suggests. It would seem that an Arab such as the third appellant would, subject to security clearance, be able to get his PDS card transferred, though it could take up to two months.

353. None of this evidence takes matters any further than the position in *MK*. The Tribunal there noted, for example, at [61] difficulties for Iraqis coming to the KRG to have their PDS card transferred from their place of origin. It was also noted that IDPs from outside the KRG could go back to the place where their PDS card was valid in order to collect food rations every month. Clearly that would not be possible for everyone, but the Tribunal went on to note the evidence concerning access to housing and employment, free public health and schooling and the financial support available from UNHCR by way of grants to people on repatriation and other forms of support from the UNHCR's Protection and Assistance Centres.

Relocation to central and southern Iraq

354. Mr Fordham also referred to the issue of relocation to the Iraqi territory under GoI authority. He referred to [83] of *MK* where it was said, among other things, that a third of IDPs interviewed in late 2009 did not have a PDS card valid in their governorate of residence and only 15% of those with one reportedly received their full monthly entitlement. We do not think the evidence summarised above in respect of relocation to central and southern Iraq takes matters materially further than was the position before the Tribunal in *MK*. Like the Tribunal then, we accept that there may be cases where an unregistered IDP with no PDS card and no family, governmental or NGO support could not reasonably be expected to relocate. It will always be important to have regard to individual circumstances. However, for the generality of Iraqis, despite difficulties that may be experienced in respect of such matters as access to health care, education and jobs, we consider that relocation within the central and southern governorates is generally safe and reasonable.

355. We turn finally in this context to the issue of documentation.

356. Again we do not see any reason to depart from the guidance in *MK* save in one respect, set out below. There is no fresh evidence in the reports of Dr George and Dr Fatah going beyond what they said in their evidence to the Tribunal in *MK*. In the Danish/UKBA report, international organisation B told the delegation that the Bureau of Migration and Displacement was not known to be very active in assisting people in need of personal documents. Public Aid Organisation (PAO) (the UNHCR Protection Assistance partner in Erbil) said that they would provide support to IDPs who needed to re-obtain missing documentation, dealing with three to five cases of this kind per month. They said that the issue of documentation amongst IDPs was not a common occurrence now compared to previous years. IDPs in the KRG usually had their personal documentation. They also said that due to the relative stabilisation

in the security situation across Iraq, people were more confident to return back to their place of origin for a short period of time to acquire documentation and would even pay for people such as taxi drivers to return on their behalf and through a power of attorney obtain documentation for them. They said that in the majority of cases IDPs would not be at risk of harm if they returned to their place of origin temporarily.

357. In the British Embassy, Baghdad letter of 7 April 2012, which stems from discussions between a member of staff at the British Embassy in Baghdad, the MoDM, Quandil (a Swedish humanitarian aid organisation and refugee actions representative in Iraq), the Ministry of Interior, UNHCR and the International Rescue Committee, it was confirmed by the MoDM and Quandil that it was rare for IDPs not to have and be in possession of their ID cards. Quandil said that even if a family lost all of their documents they could obtain copies from the Central Archives. The letter goes on to say at [15] that the Civil Identity Records are retained on microfiche in a central archive so that, for example, when the records in the Civil Status Office in Basra were destroyed, copies were available on microfiche in Baghdad. It is said that it is most unusual for personal or civil records to go missing.

358. This evidence, if anything, adds to what was said by the Tribunal in *MK*. At [40] the Tribunal commented that there was nothing to show that it was, or perhaps ever had been, the case that a central register in Baghdad had been kept. This further evidence requires us to modify that position. Given the current state of the evidence in this regard, we consider that we can add to the guidance in *MK* by noting the existence of the Central Archive retaining civil identity records on microfiche, providing a further way in which a person can identify themselves and obtain a copy of their CSID, whether from abroad or within Iraq.

Conclusions: General

359. We should first make clear our position as regards the substance of the guidance given in *HM1*. As we made clear, we are to approach those appeals by considering all the material now available, since we are two years on, and reaching a conclusion based on all material. We have had the advantage of hearing the experts and having their views tested in cross-examination and the benefit of detailed submissions from counsel on both sides. To an extent we have now had time and opportunity to consider whether what was a "pre-election forecast" has proved to be appropriate. The Tribunal in *HM1* considered all the material before it. Mr Fordham in the Court of Appeal was in the end only able to show a failure to consider 3 reports and one which had only came into existence less than a month before the determination was promulgated. It follows that essentially all relevant material was considered, but in the absence of the experts' views and submissions on behalf of the appellants. Although our focus in this decision is on the situation in Iraq now, we are satisfied that in *HM1* the Tribunal reached country guidance conclusions which were correct.

360. So far as concerns the situation now our guidance is as follows:

A.

Law

a) The guidance as to the law relating to Article 15(c) of the Refugee Qualification Directive 2004/83/EC given by the Tribunal in *HM and Others (Article 15(c))* Iraq CG [2010] UKUT 331 (IAC) ("*HM1*") at [62]-[78] is reaffirmed. Of particular importance is the observation in *HM1* that decision-makers ensure that following *Elgafaji*, Case C-465/07 BAILI; [2009] EUECJ Case C-465/07 and *QD (Iraq*) [2009] EWCA Civ 620, in situations of armed conflict in which civilians are affected by the fighting, the approach to assessment of the level of risk of indiscriminate violence must be an inclusive one, subject only to the need for there to be a sufficient causal nexus between the violence and the conflict.

b) Given that country guidance cases may have an impact on a large number of asylum cases and appeals, their significance in saving costs in future cases, quite apart from their general importance, should require consideration of the grant of legal aid for representation in the public interest.

c) Whilst the Upper Tribunal will do all it can to ensure representation in a country guidance case, it cannot be excluded that in highly unusual circumstances such a case would proceed without claimant representation.

d) Though very considerable weight is almost always to be attached to UNHCR guidelines on risk categories in particular countries, it is not accepted that departure from the guidelines should only take place for a cogent and identified reason. Cases are to be decided on the basis of all the evidence and arguments presented to the Tribunal.

B. Country guidance

i. Whilst the focus of the present decision is the current situation in Iraq, nothing in the further evidence now available indicates that the conclusions that the Tribunal in HM1 reached about country conditions in Iraq were wrong.

ii. As regards the current situation, the evidence does not establish that the degree of indiscriminate violence characterising the current armed conflict taking place in the five central governorates in Iraq, namely Baghdad, Diyala, Tameen (Kirkuk), Ninewah, Salah Al-Din, is at such a high level that substantial grounds have been shown for believing that any civilian returned there would solely on account of his presence there face a real risk of being subject to that threat.

iii. Nor does the evidence establish that there is a real risk of serious harm under Article 15(c) for civilians who are Sunni or Shi'a or Kurds or have former Ba'ath Party connections: these characteristics do not in themselves amount to "enhanced risk categories" under Article 15(c)'s "sliding scale" (see [39] of *Elgafaji).*

iv. Further evidence that has become available since the Tribunal heard *MK (documents - relocation*) Iraq CG [2012] UKUT 126 (IAC) does not warrant any departure from its conclusions on internal relocation alternatives in the KRG or in central or southern Iraq save that the evidence is now sufficient to establish the

existence of a Central Archive maintained by the Iraqi authorities retaining civil identity records on microfiche, which provides a further way in which a person can identify themselves and obtain a copy of their CSID, whether from abroad or within Iraq.

v. Regarding the issue of whether there would be a risk of treatment contrary to Article 3 ECHR arising from returns from the UK to Baghdad International Airport (BIAP):

a). If a national of Iraq who has failed to establish that conditions inside Iraq are unsafe is compulsorily returned to Baghdad International Airport (BIAP) on either a current or expired Iraqi passport, there is no real risk of detention in the course of BIAP procedures (except possibly in respect of those who are the subject of a judicial order or arrest warrant). Nor is there such a risk if such a person chooses to make a voluntary return with a laissez passer document which can be issued by the Iraqi embassy in the UK.

b). If, however, such a person is compulsorily returned to BIAP without either a current or expired Iraqi passport, he may be at risk of detention in the course of BIAP procedures and it cannot be excluded that the detention conditions might give rise to a real risk of treatment contrary to Article 3 ECHR. Such a risk is however, purely academic in the UK context because under the current UK returns policy there will be no compulsory return of persons lacking such documents.

THE APPELLANTS' CASES

HM and RM

361. The backgrounds of HM and RM are set out at [47]-[49] above. Neither has any documentation. In light of our general findings above, we do not consider that either has made out a claim for Article 15(c) protection, either on immediate return to Baghdad, in transit to Kirkuk or in Kirkuk itself. Neither their age nor sex nor Kurdish ethnicity will give rise to a real risk of serious harm under Article 15(c).

362. As to what would happen to HM and RM at BIAP, we observe that the Secretary of State has made clear that under her current returns policy there will be no enforced returns of undocumented persons. Enforced returns are confined to those who have a current or expired Iraqi passport. Currently, therefore, HM and RM do not stand to be returned. In the meantime, of course, it is open to the appellants, if they choose, to make a voluntary return with a laissez passer document which can be issued by the Iraqi embassy in the UK. Were they to do that, then, again there would be no real risk of detention because the evidence is clear that such persons are not detained on arrival.

363. Should HM or RM choose to move to the KRG, whether on a temporary or permanent basis, we would anticipate no difficulties beyond minor delays. Indeed,

given that both were originally resident there, we consider there may not even be any minor delays.

364. We consider that living conditions for them either in the KRG or in central or southern Iraq would be safe and adequate for them and that relocation within any of these areas would not be unreasonable. In this regard we bear in mind that they are relatively young with no health difficulties.

HF

365. Mutatis mutandis, many of the above conclusions are relevant to HF also, although as he has an Iraqi ID card and driving licence currently held by the Secretary of State, we consider that this documentation would enable him to obtain a CSID and a laissez passer and to pass through BIAP controls without difficulty and be reunited with his family members who include his mother, two sisters and an aunt in Baghdad. We see no "enhanced risk factors" attaching to his Arab ethnicity or his Sunni Muslim religious identity that would place him at risk in Baghdad or elsewhere in Iraq. The evidence does not establish any risk to him on account of his deceased father's links to the Ba'ath Party. If he chose to relocate to the KRG or other parts of central or southern Iraq, we consider that would be both safe, accessible and not unreasonable.

366. For the above reasons we conclude:

That the decision of the immigration judge in the case of HM and in the case of RM was wrong in law and have been set aside. The decision we re-make is to dismiss their appeals;

That the decision of the immigration judge in the case of HF was wrong in law and has been set aside. The decision we re-make is to dismiss his appeal.

Signed

Mr Justice Collins

APPENDIX

DOCUMENTARY EVIDENCE BEFORE THE UPPER TRIBUNAL

1.	UN High Commissioner for Refugees (UNHCR), Guidelines on International protection: "Internal Flight or relocation alternative" within the context of Article 1A (2) of the 1951 Convention and/or 1967 Protocol relating to the status of refugees	23.07.2003
2.	UN High Commissioner for Refugees (UNHCR), UNHCR Annotated Comments on the EC Council Directive	29.04.2004
3.	Hansard: Removals and voluntary departures, by type, nationals of Iraq to Iraq, January 2004 to June 2011	14.07.2005
4.	UN High Commissioner for Refugees (UNHCR), Country of Origin Information, Iraq	10.2005
5.	The New York Times: To stay alive, Iraqis Change Their Names	05.09.2006
6.	Institute for Economics and Peace, Global Peace Index: Methodology, Results and Findings 2007	2007
7.	International Organisation for Migration (IOM UK), Stories of Return	2007
8.	UN High Commissioner for Refugees (UNHCR), Strategy for the Iraq Situation	01.01.2007
9.	UN High Commissioner for Refugees (UNHCR), UNHCR issues latest Iraq advisory	09.01.2007
10.	Brookings, Iraq Index: Tracking Variables of Reconstruction & Security in Post-Saddam Iraq	29.01.2007
11.	UN High Commissioner for Refugees (UNHCR), Iraq: A humanitarian operation that will go on for years	02.02.2007
12.	International Committee of the Red Cross (ICRC), Civilians without Protection: The ever worsening humanitarian crisis in Iraq	04.2007
13.	UK Border Agency COIS Reports, Operational Guidance Note v3: Iraq	12.02.2007

14.	US Department of State, Iraq Bureau of Democracy, Human Rights and Labor 2006, Country Reports on Human Rights Practices 2006: Iraq	06.03.2007
15.	United Nations (UN), The Report of the Secretary General on Iraq pursuant to paragraph 30 of resolution 1546 (2004)	07.03.2007
16.	Human Rights Watch (HRW), Iraq: US Data on Civilian Casualties Raises Serious Concerns	12.04.2007
17.	International Federation of Red Cross and Red Crescent Societies (IFRC)Humanitarian Needs of Populations Displaced From Iraq	18.04.2007
18.	International Crisis Group (ICG), Iraq and the Kurds: Resolving the Kirkuk Crisis	19.04.2007
19.	UN Assistance Mission for Iraqi (UNAMI), Human Rights Report: 1 January - 31 March 2007	25.04.2007
20.	UK Border Agency COIS Reports, Iraq COI Report April 2007	30.04.2007
21.	United Nations (UN), Humanitarian Briefing on the Crisis in Iraq	02.05.2007
22.	United Nations (UN), The Report of the Secretary General on Iraq pursuant to paragraph 30 of resolution 1546 (2004)	05.06.2007
23.	UN High Commissioner for Refugees (UNHCR), Iraq: Situation continues to worsen, local governorates overwhelmed	05.06.2007
24.	Freedom House Freedom in the World 2007: Iraq	26.06.2007
25.	Carnegie Endowment, Iraq Four Years after the U.S.-Led Invasion: Assessing the Crisis and Searching for a Way Forward	07.2007
26.	Human Rights Watch (HRW), Caught in the Whirlwind: Torture and Denial of Due Process by the Kurdistan Security Forces	02.07.2007
27.	US Department of State, International Religious Freedom Report 2007: Iraq	09.2007
28.	UN High Commissioner for Refugees (UNHCR), Governorate Assessment Report Erbil Governorate	01.09.2007
29.	UN High Commissioner for Refugees (UNHCR), Governorate Assessment Report Sulaymaniyah Governorate	01.09.2007
30.	UN High Commissioner for Refugees (UNHCR), Governorate Assessment Report Dahuk Governorate	01.09.2007

31.	UN High Commissioner for Refugees (UNHCR), UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers	05.09.2007
32.	United Nations (UN), The Report of the Secretary General on Iraq - Report of the Secretary General pursuant to paragraph 6 of resolution 1770 (2007)	15.10.2007
33.	UN High Commissioner for Refugees (UNHCR), Iraq: Ability of IDPs to Transfer PDS cards by governorate	11.2007
34.	United Nations (UN), Humanitarian Crisis in Iraq: Facts and Figures	13.11.2007
35.	UN High Commissioner for Refugees (UNHCR), UNHCR says time not right for large-scale Iraq repatriation	23.11.2007
36.	UN High Commissioner for Refugees (UNHCR), Addendum to UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers	17.12.2007
37.	Institute for Economics and Peace, Global Peace Index: Methodology, Results and Findings 2008	2008
38.	Iraq Body Count (IBC), Civilian deaths from violence in 2007	01.01.2008
39.	UK Border Agency COIS Reports, Iraq COI Report January 2008	08.01.2008
40.	Center for Strategic and International Studies (CSIS), The Patterns in Violence and Casualties in Iraq 2007: The Need for Strategic Patience	08.01.2008
41.	International Organisation for Migration (IOM): Iraq Displacement 2007 – Year in Review	10.01.2008
42.	United Nations (UN), The Report of the Secretary General on Iraq pursuant to paragraph 6 of resolution 1770 (2007)	14.01.2008
43.	Brookings, Iraq Index: Tracking Variables of Reconstruction & Security in Post-Saddam Iraq	28.01.2008
44.	IRIN: Iraq: More relief aid needed in Mosul after blast	28.01.2008
45.	Human Rights Watch (HRW)World Report 2008: Iraq	31.01.2008
46.	The Independent: Sunni vs Shia: The real bloody Baghdad	05.02.2008

47.	BBC News: Assault looms in Iraq's 'worst place'	07.02.2008
48.	International Crisis Group (ICG)Civil War, The Sadrists and the Surge	07.02.2008
49.	Center for Strategic and International Studies (CSIS), Violence in Iraq: Reaching an 'Irreducible Minimum'	25.02.2008
50.	Iraq Updates: Civilian wounded in explosion in Kirkuk	25.02.2008
51.	Office of the High Commissioner for Human Rights (OHCHR), Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: Summary of cases transmitted to Governments and replies received (Iraq excerpt)	25.02.2008
52.	Iraq Updates: Police chief escapes attempt on his life	28.02.2008
53.	Iraq Updates: Unknown gunmen kidnap two workers, trucker in Kirkuk	28.02.2008
54.	International Committee of the Red Cross (ICRC), Iraq: No Let Up in the Humanitarian Crisis	03.2008
55.	International Committee of the Red Cross (ICRC), Crossing the desert – the ICRC in Iraq: analysis of a humanitarian operation	03.2008
56.	Iraq Updates: Parliament rapporteur blames army for Kirkuk attack	01.03.2008
57.	Iraq Updates: Kirkuk attack casualties up to fourteen	01.03.2008
58.	US Department of State, Country Reports on Human Rights Practices 2007: Iraq	11.03.2008
59.	UN Assistance Mission for Iraqi (UNAMI), Human Rights Report: 1 July – 31 December 2007	15.03.2008
60.	International Organisation for Migration (IOM): Emergency Needs Assessments: Post-February 2006 displacement in Iraq, bi-weekly report	15.03.2008
61.	International Organisation for Migration (IOM UK), Iraq: Five years on, more people displaced than ever before	18.03.2008
62.	International Rescue Committee (IRC), 5 Years Later, a hidden crisis	20.03.2008
63.	Foreign and Commonwealth Office (FCO), Human Rights Annual Report 2007: Iraq	25.03.2008

64.	US Department of State (USSD), US Department of State, Excerpt from "Country Reports on Terrorism" 2007	04.2008
65.	University of New South Wales, The Standard of Proof in Complementary Protection Cases: Comparative Approaches in North America and Europe	01.05.2008
66.	Canadian Immigration and Refugee Board, Responses to Information Requests	02.05.2008
67.	UK Border Agency COIS Reports, Iraq COI Report May 2008	15.05.2008
68.	Amnesty International, Iraq: Amnesty International Report 2008	28.05.2008
69.	International Organisation for Migration (IOM UK), Iraq displacement & return 2008 Mid-year review	6.2008
70.	Amnesty International, Rhetoric and reality: the Iraqi refugee crisis	15.06.2008
71.	Brookings, Ministry of Displacement (MoDM) and Migration, National Policy on Displacement	07.2008
72.	Freedom House Freedom in the World 2008: Iraq	02.07.2008
73.	United Nations (UN), The Report of the Secretary General on Iraq pursuant to paragraph 6 of resolution 1770 (2007)	28.07.2008
74.	International Organisation for Migration (IOM UK), IOM Monitoring and Needs Assessments, Assessments of Iraq Returns	08.2008
75.	International Organisation for Migration (IOM UK), IOM Displacement Monitoring and Needs Assessments, Tent Camp Assessment Report	08.2008
76.	Brookings, The Looming Crisis: Displacement and Security in Iraq	05.08.2008
77.	UK Border Agency COIS Reports, Iraq COI Report August 2008	15.08.2008
78.	US Department of State, International Religious Freedom Report 2008: Iraq	19.09.2008
79.	European Legal Network on Asylum (ECRE and ELENA), The Impact of the EU Directive on International Protection	01.10.2008
80.	UK Border Agency COIS Reports, Operational Guidance Note v4: Iraq	29.10.2008
81.	Council on Foreign Relations, Ansar Al-Islam (Iraq, Islamists/Kurdish Separatists), Ansar Al-Sunnah	05.11.2008

82.	International Organisation for Migration (IOM): Kirkuk, Ninewa and Salah Al-Din Governorate Profiles Post-2006 IDP Needs Assessments December 2008	12.2008
83.	UN Assistance Mission for Iraqi (UNAMI), Human Rights Report: 1 January - 30 June 2008	02.12.2008
84.	Wikileaks: Abu Ghraib, A New Day	17.12.2008
85.	Iraq Body Count (IBC), Post-surge violence: its extent and nature	28.12.2008
86.	Institute for Economics and Peace, Global Peace Index: Methodology, Results and Findings 2009	2009
87.	UN High Commissioner for Refugees (UNHCR), UNHCR Statement on Subsidiary Protection under the EC Qualification Directive for People Threatened by Indiscriminate Violence	01.2009
88.	Integrated Regional News Service (IRIN), Iraqis want free food programme to continue, finds survey	04.01.2009
89.	UK Border Agency COIS Reports, Iraq COI Report January 2009	12.01.2009
90.	Human Rights Watch (HRW)World Report 2009: Iraq	14.01.2009
91.	Brookings, Iraq Index: Tracking Variables of Reconstruction & Security in Post-Saddam Iraq	30.01.2009
92.	Office of the High Commissioner for Human Rights (OHCHR), Report of the Special Rapporteur on freedom of religion or belief: Summary of cases transmitted to governments and replies received (Iraq excerpt)	16.02.2009
93.	International Organisation for Migration (IOM UK), IOM Emergency Needs Assessments, Three Years of Post-Samarra displacement in Iraq	22.02.2009
94.	US Department of State, 2008 Human Rights Report: Iraq	25.02.2009
95.	UN Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Update	03.2009

96.	Office of the High Commissioner for Human Rights (OHCHR), Report submitted by the Special Rapporteur on the situation of human rights defenders: Summary of cases transmitted to Governments and replies received (Iraq excerpt)	04.03.2009
97.	Amnesty International, Challenging Repression: Human Rights Defenders in the Middle East and North Africa	11.03.2009
98.	Foreign and Commonwealth Office (FCO), Annual Report on Human Rights 2008 – Iraq	26.03.2009
99.	UN Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Update	04.2009
100.	Amnesty International, Hope and Fear: Human Rights in the Kurdistan Region of Iraq	14.04.2009
101.	UN High Commissioner for Refugees (UNHCR), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers	27.04.2009
102.	UN Assistance Mission for Iraqi (UNAMI), Human Rights Report 1 July – 31 December 2008	29.04.2009
103.	US Department of State, Country Reports on Terrorism 2008: Iraq	30.04.2009
104.	Center for Strategic and International Studies (CSIS), Iraq: Trends in Violence and Civilian Casualties: 2005-2009	05.05.2009
105.	UN High Commissioner for Refugees (UNHCR), UNHCR revises guidelines for Iraqi asylum claims	05.05.2009
106.	Jane's Sentinel, Country Risk Assessment: "Infrastructure Iraq"	22.05.2009
107.	Office of the High Commissioner for Human Rights (OHCHR), Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: Summary of cases transmitted to Governments and replies received (Iraq excerpt)	27.05.2009
108.	Amnesty International, Iraq: Human Rights in Republic of Iraq: Amnesty International Report 2009	28.05.2009
109.	UNDP, Overview of landmines and explosive remnants of war in Iraq	06.2009

110.	Brookings, Internal Displacement in Iraq: The Process of Working Toward Durable Solutions	01.06.2009
111.	Journal of Humanitarian Assistance, Counting excess civilian casualties of the Iraq War: Science or Politics?	22.06.2009
112.	Danish Immigration Service, Security and Human Rights Issues in Kurdistan Region of Iraq (KRI), and South/Central Iraq (S/C Iraq)	07.2009
113.	UK Border Agency COIS Reports, Iraq COI Report July 2009	10.07.2009
114.	Freedom House Freedom in the World 2009: Iraq	16.07.2009
115.	International Committee of the Red Cross (ICRC), Civilians without protection	08.2009
116.	Inter Agency Information & Analysis Unit (IAU Iraq), The Humanitarian Situation in Iraq: Inter-Agency Factsheet	08.2009
117.	International Committee of the Red Cross: Iraq: ongoing conflict claims hundreds of civilian lives every month	13.08.2009
118.	Voice of America News: Baghdad Blasts Kill 95	19.08.2009
119.	Human Rights Watch (HRW), Iraq: Halt All Attacks on Civilians	23.08.2009
120.	Voice of America New: Southern Iraq Blasts Kill 11	24.08.2009
121.	Voice of America News: Explosions in Northern Iraq Claim More Lives	29.08.2009
122.	UK Border Agency COIS Reports, Casework Instructions - Humanitarian Protecton Article 15 (c)	09.2010
123.	Human Rights Watch (HRW), UPR Submission	01.09.2009
124.	Voice of America News: Government Says August Was Bloodiest Month for Iraqis in Past Year	01.09.2009
125.	Inter Press Service News Agency (IPS): Iraq: Stormy Times as U.S. Withdraws	05.09.2009
126.	Voice of America News: Bombs across Iraq Kill 18	07.09.2009
127.	Office of the High Commissioner for Human Rights (OHCHR), Joint written statement submitted by the Women's International Democratic Federation (Abuse and Torture in Iraq)	07.09.2009

128.	Voice of America News: Suicide Truck Bomb Kills 20 in Northern Iraq	10.09.2009
129.	International Committee of the Red Cross (ICRC), Operational Update – Iraq: ICRC Activities in August 2009	15.09.2009
130.	UK Border Agency COIS Reports, Iraq COI Report September 2009	16.09.2009
131.	UK Border Agency COIS Reports, Kurdistan Regional Government Area of Iraq COI Report September 2009	16.09.2009
132.	Human Rights Watch (HRW), Iraq: Halt All Attacks on Civilians	23.08.2009
133.	UN High Commissioner for Refugees (UNHCR), Protection Monitoring Assessments Summary, January – October 2009	10.2009
134.	Voice of America News: Suicide Bomber Kills 6 at Iraqi Funeral	05.10.2009
135.	Inter Agency Information & Analysis Unit (IAU Iraq)Fact Sheet: Housing & Shelter in Iraq World Habitat Day	05.10.2009
136.	HJT Research: Iraqi asylum seekers deported from the UK are sent back to Britain	16.10.2009
137.	Voice of America News: At Least 15 Killed at Sunni Mosque in Iraq	16.10.2009
138.	UN High Commissioner for Refugees (UNHCR), Involuntary returns to Central Iraq contrary to UNHCR guidelines	23.10.2009
139.	Radio Free Europe/Radio Liberty: Two Car Bombs Kill At Least 132 in Baghdad	25.10.2009
140.	Voice of America News: Dual Baghdad Bombings Kill 155, Wound 500	26.10.2009
141.	US Department of State, International Religious Freedom Report 2009: Iraq	26.10.2009
142.	Amnesty International: Latest killings of civilians in Baghdad a 'war crime'	26.10.2009
143.	Voice of America News: At Least 8 Killed in Iraq Bombings	01.11.2009
144.	International Organisation for Migration (IOM UK), Assessment of Return to Iraq	03.11.2009
145.	International Organization for Migration (IOM): Displaced Iraqis Face New Set of Challenges upon Return	03.11.2009
146.	ISN Security Watch: Baghdad divided	09.11.2009
147.	International Organisation for Migration (IOM UK), Returning to Iraq: Country Information	10.11.2009

148.	Ministry of Transport: Armour Group undertake security for Ministry of Transport, Baghdad International Airport	12.11.2009
149.	Voice of America News: Gunmen Kill 13 Villagers near Baghdad	16.11.2009
150.	Voice of America News: Killings in Iraq Highlight Continuing Security Concerns	16.11.2009
151.	Brookings, Resolving Iraqi Displacement: Humanitarian and Development Perspectives	18.11.2009
152.	Office of the High Commissioner for Human Rights (OHCHR), Universal Periodic Review – Iraq: Summary of stakeholders' information	01.12.2009
153.	Voice of America News: Car Bombs Kill Over 100, Wound More than 400 in Baghdad	08.12.2009
154.	UK Border Agency COIS Reports, Iraq COI Report December 2009	10.12.2009
155.	United Nations High Commissioner for Refugees (UNHCR): UNHCR reiterates concern about involuntary returns to Iraq amid violence	11.12.2009
156.	UN High Commissioner for Refugees (UNHCR), UNHCR reiterates concern about involuntary returns to Iraq amid violence	11.12.2009
157.	UN Assistance Mission for Iraqi (UNAMI), Human Rights Report 1 January - 30 June 2009	14.12.2009
158.	Voice of America News: Bombings in Baghdad, Mosul Kill 8; Many Wounded	15.12.2009
159.	Voice of America News: 20 Killed in Central Iraq Bomb Attacks	24.12.2009
160.	Voice of America News: Violence in Iraq as Muslims, Christians Mark Religious Holidays	25.12.2009
161.	Congressional Research Service, Iraq: Post-Saddam Governance and Security	29.12.2009
162.	Voice of America News: 23 Dead in Twin Bombings in Iraq's Anbar Province	30.12.2009
163.	Iraq Body Count (IBC), Civilian deaths from violence in 2009	31.12.2009
164.	International Committee of the Red Cross (ICRC), ICRC Annual Report 2010	2010
165.	Institute for Economics and Peace, Global Peace Index: Methodology, Results and Findings 2010	2010
166.	RAND, An Economic Analysis of the Financial Records of Al-Qa'ida in Iraq	2010

167.	Minority Rights Group International, Report: Still Targeted: Continued Persecution of Iraq's Minorities	2010
168.	UN Assistance Mission for Iraqi (UNAMI), Human Rights Report, 1 July – 31 December 2009	2010
169.	Ministry of Planning, National Development Plan, 2010 – 2014	2010
170.	International Organisation for Migration (IOM UK), IDP Programme Projects 2006-2010	2010
171.	United Nations (UN), Humanitarian Action Plan	2010
172.	Iraq Body Count (IBC), Database	01.01.2010 to date
173.	National Counter-Terrorism Command, Worldwide Incidents Tracking System (database source calendar - extracts up to Calendar Year 2011)	01.2010 - 31.12.2011
174.	Institute for War and Peace Reporting (UK): Iraq: Fear Grips Anbar after Bombings	05.01.2010
175.	Radio Free Europe/Radio Liberty: Bomb Attacks Kill Seven in Iraq	07.01.2010
176.	Freedom House Freedom in the World 2010: Iraq	21.01.2010
177.	Human Rights Watch (HRW)Country Summary	20.01.2010
178.	Voice of America News: Three Suicide Bombers Attack Baghdad Hotels, Killing 36 People	25.01.2010
179.	Brookings, Iraq Index: Tracking Variables of Reconstruction & Security in Post-Saddam Iraq	26.01.2010
180.	Special Inspector General for Iraq Reconstruction (SIGR), Quarterly Report and Semiannual Report to the United States Congress	30.01.2010
181.	International Organisation for Migration (IOM UK), Governate Profile: Diyala	02.2010
182.	International Committee of the Red Cross (ICRC), A tough road home: Uprooted Iraqis in Jordan, Syria and Iraq	02.2010
183.	International Organisation for Migration (IOM UK), Governate Profile: Kirkuk	02.2010
184.	International Organisation for Migration (IOM UK), IOM Mission in Iraq: Newsletter Volume II 2010	02.2010

185.	United Nations (UN), Report of the Secretary-General pursuant to paragraph 6 of resolution 1883 (2009)	08.02.2010
186.	Center for Strategic and International Studies (CSIS), The Uncertain Security Situation in Iraq: trends in violence, casualties and Iraqi perceptions	17.02.2010
187.	Radio Free Europe/Radio Liberty: Sixteen Killed In Spate of Attacks Across Iraq	22.02.2010
188.	Internal Displacement Monitoring Centre (IDMC), Returnees and IDPS face difficulties in registration and obtaining documentation required (2005 – 2009)	25.02.2010
189.	International Crisis Group (ICG)Iraq's Uncertain Future: Elections and Beyond	25.02.2010
190.	Congressional Research Service Iraq Casualties: US Military Forces and Iraqi Civilians, Police and Security Forces	25.02.2010
191.	UN High Commissioner for Refugees (UNHCR), UNHCR Iraq Operation Monthly Statistical update on return - March 2010	03.2010
192.	UNHCR, Iraq Fact Sheet	03.2010
193.	US Department of Defence, Measuring Stability and Security in Iraq: March 2010 Report to Congress	03.2010
194.	Voice of America News: Early Voting in Iraq Marred by Suicide Attacks	04.03.2010
195.	Internal Displacement Monitoring Centre (IDMC) Iraq: Little new displacement but around 2.8 million Iraqis remain internally displaced: A profile of the internal displacement situation	04.03.2010
196.	Compass Direct (USA): Violence Escalates in Mosul, Iraq ahead of Elections	05.03.2010
197.	Center for Strategic and International Studies (CSIS), Iraq: Meeting the Challenges of 2010	10.03.2010
198.	US Department of State, 2009 Human Rights Report: Iraq	11.03.2010
199.	Radio Free Europe/Radio Liberty: Car Bomb Kills Seven in Fallujah	15.03.2010
200.	Foreign and Commonwealth Office (FCO), Human Rights Annual Report 2009 - Countries of Concern: Iraq	17.03.2010
201.	Danish Immigration Service, Honour Crimes against Men in Kurdistan Region of Iraq (KRI) and the Availability of Protection	23.03.2010

202.	Iraq Body Count (IBC), Iraq War Logs: What the numbers reveal	23.10.2010
203.	Voice of America News: Violence Rocks Iraq Ahead of Vote Results	26.03.2010
204.	Voice of America News: At Least Six Killed in Iraq Bombings	28.03.2010
205.	Voice of America News: Car Bombs Kill 5 in Iraqi Holy City	29.03.2010
206.	International Organisation for Migration (IOM UK), IOM UK's Reintegration Assistance to returnees under VARRP's New Approach (2007 – 2009)	04.2010
207.	Norwegian Directorate of Immigration, The Making of UNHCR's guidance and its implementation in the national jurisdiction of the United Kingdom, Norway and Sweden	04.2010
208.	Economist Intelligence Unit Country Report, Iraq	01.04.2010
209.	Voice of America News: Iraqi Insurgents Kill 24 People with Ties to Pro-US Militia	03.04.2010
210.	Voice of America News: Three Massive Bombs Rock Baghdad, at Least 41 Killed	04.04.2010
211.	Brookings, April 2010 Index Update: A look into the Afghanistan, Pakistan and Iraq Index Projects	05.04.2010
212.	Voice of America News: Bombs Kill 35 People in Shi'ite Neighborhoods of Baghdad	06.04.2010
213.	Amnesty International: Killings of civilians in Iraq constitute 'war crimes'	07.04.2010
214.	Voice of America News: Bombings in Iraq Kill 6	10.04.2010
215.	UN High Commissioner for Refugees (UNHCR), Diyala Initiative - Facilitating returns and creating conditions for sustainable reintegration	12.04.2010
216.	International Organisation for Migration (IOM UK), IOM Emergency Needs Assessments, Four Years of Post-Samarra displacement in Iraq	13.04.2010
217.	Voice of America News: Baghdad Violence Kills Sunni Cleric, Two Others	14.04.2010
218.	Danish Immigration Service Entry Procedures and Residence in Kurdistan Region of Iraq (KRI) for Iraqi Nationals	15.04.2010
219.	Amnesty International: Iraq urged to investigate secret prison allegations	19.04.2010

220.	Center for Strategic and International Studies (CSIS), Q & A Iraq after the death of Al-Qaeda in Iraq's Leadership	19.04.2010
221.	International Organisation for Migration (IOM UK), IOM Emergency Needs Assessments Displacement from Mosul, Ninewa	20.04.2010
222.	Human Rights Watch: Iraq: Detainees Describe Torture in Secret Jail	27.04.2010
223.	Amnesty International, Iraq: Civilians under fire	27.04.2010
224.	Voice of America News: Human Rights Watch: Torture 'Routine' at Secret Iraqi Detention Facility	28.04.2010
225.	Institute for War and Peace Reporting (UK): Sadr City Shaken by Bombings	29.04.2010
226.	Radio Free Europe/Radio Liberty: Reports: Eight Killed In Baghdad Car Bomb	29.04.2010
227.	Special Inspector General for Iraq Reconstruction (SIGR), Quarterly Report to the United States Congress	30.04.2010
228.	International Rescue Committee (IRC), 10,000 Refugees from Iraq – A report on Joint Resettlement in the European Union	05.2010
229.	Kurdistan Regional Government, Fact Sheet: Travel to the Kurdistan Region in Iraq	01.05.2010
230.	Voice of America News: Attack on Iraqi Students Kills One, Wounds 80	02.05.2010
231.	Iraq Body Count (IBC), Exaggerated claims, substandard research, and a disservice to truth	05.05.2010
232.	US Department of State, Iraq Status Report	05.05.2010
233.	Radio Free Europe/Radio Liberty: Scores Killed, Wounded in Attacks in Iraq	10.05.2010
234.	Voice of America News: Attacks in Iraq Kill More Than 100	10.05.2010
235.	Voice of America News: Attacks in Iraqi Capital Kill at Least Five Police Officers	11.05.2010
236.	United Nations (UN), Development Assistance Framework for Iraq 2011 – 2014	11.05.2010
237.	Voice of America News: Attacks Kills Ten in Baghdad	13.05.2010
238.	Voice of America News: Bombings near Iraqi Stadium kill at least ten	14.05.2010
239.	Danfoss, First Quarterly Report Jan-March 2010	17.05.2010
240.	Iraq Body Count (IBC), Documented civilian deaths from violence	20.05.2010

241.	Voice of America News: Car bomb kills 23 in Iraq	21.05.2010
242.	Brookings, Iraq Index: Tracking Variables of Reconstruction and Security in Post-Saddam Iraq	25.05.2010
243.	Office of the High Commissioner for Human Rights (OHCHR), Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: Summary of cases transmitted to Governments and replies received (Iraq excerpt)	26.05.2010
244.	Amnesty International, Iraq: Amnesty International Report 2010	27.05.2010
245.	Center for Strategic and International Studies (CSIS), Iraq and the United States: Creating a Strategic Partnership	06.2010
246.	Washington Institute for Near East Policy, Policy Notes: The Iraqi Security Forces: Local Context and U.S. Assistance	06.2010
247.	US Department of Defence, Measuring Stability and Security in Iraq: June 2010 Report to Congress	06.2010
248.	Voice of America News: at Least Five Killed in Iraq Explosions	06.06.2010
249.	Amnesty International: European states must stop the imminent forcible return of Iraqis	06.06.2010
250.	Voice of America News: At least Seven Killed in Iraq Attacks	07.06.2010
251.	Foreign & Commonwealth Office: Iraq – Internal Travel	07.06.2010
252.	UN High Commissioner for Refugees (UNHCR), UNHCR cautions against European deportations to Iraq	08.06.2010
253.	Amnesty International: UK: Removals to Iraq put lives in danger	08.06.2010
254.	UNHCR: UNHCR cautions against European deportations to Iraq	08.06.2010
255.	Radio Free Europe/Radio Liberty: Baghdad Bank Attack Kills 12	13.06.2010
256.	Amnesty International: Stop forcible returns from Europe to Iraq	17.06.2010
257.	Voice of America News: At Least 20 Killed in Iraq Attacks	18.06.2010
258.	Guardian: Iraqi asylum seekers claim they were beaten on flight to Baghdad	18.06.2010

259.	Voice of America News: Twin Suicide Blasts Kill More Than Two Dozen in Baghdad	20.06.2010
260.	Voice of America News: Bomb Attack Kills 8 in Northern Iraq	21.06.2010
261.	Voice of America News: Nine Killed in Iraq Attacks	24.06.2010
262.	International Committee of the Red Cross (ICRC), Iraq: helping detainees and their families	28.06.2010
263.	UN Office for the Coordination of Humanitarian Affairs (OCHA), Iraqi Kurdish Border Displacement Situation Update Note	07.2010
264.	International Organisation for Migration (IOM UK), Iraq Facts and Figures	01.07.2010
265.	Voice of America News: Suicide Bomber Kills At Least 30 Shi'ite Pilgrims in Baghdad	07.07.2010
266.	Voice of America News: Suicide Bombers Kill at Least 46 in Iraq	18.07.2010
267.	Voice of America News: Iraqi Mosque Bombing Kills 15	21.07.2010
268.	HJT Research: News media reports on the fate of failed Iraqi asylum seekers deported from the UK	22.07.2010
269.	UN High Commissioner for Refugees (UNHCR), Note on the Continued Applicability of the April 2009 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers	28.07.2010
270.	UN High Commissioner for Refugees (UNHCR), Annex to the Note on the Continued Applicability of the April 2009 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers: Reports of Attacks and Security Incidents in Iraq since April 2009	28.07.2010
271.	United Nations (UN), Report of the Secretary-General pursuant to paragraph 6 of resolution 1883 (2009)	29.07.2010
272.	International Organisation for Migration (IOM UK), Review of Displacement and Return in Iraq	08.2010
273.	Voice of America News: Iraq's July Death Toll Highest In Two Years	01.08.2010

274.	Voice of America News: Iraq Bombings Kill At Least 12 in Southern City of Kut	03.08.2010
275.	US Department of State, Country Reports on Terrorism 2009: Iraq	05.08.2010
276.	Voice of America News: Roadside Bombs, Shootings Kill Ten in Iraq; Gunmen Kill 5 in Baghdad Checkpoint Shooting Spree	15.08.2010
277.	Voice of America News: Explosions Wreak Havoc in Major Iraqi Cities	25.08.2010
278.	Ajazeera: Pulling out of Iraq, 'US combat troops are leaving the country, but can the Iraqi army ensure security?'	30.08.2010
279.	United Nations High Commissioner for Refugees (UNHCR): UNHCR concerned at ongoing deportations of Iraqis from Europe	03.09.2010
280.	UN High Commissioner for Refugees (UNHCR), UNHCR concerned at ongoing deportations of Iraqis from Europe	03.09.2010
281.	Jane's Sentinel, Security Assessment: The Gulf States: Security and Foreign Forces"	05.09.2010
282.	BBC News: Fresh claims of Iraqi deportation "beatings"	09.09.2010
283.	Guardian: Deported Iraqi asylum seekers say they were beaten and forced off plane	09.09.2010
284.	Coalitions to Stop Deportations to Iraq (UK): Iraqi refugees assaulted on mass deportation flight to Baghdad	09.09.2010
285.	Danish Immigration Service Security and Human Rights in South/Central Iraq	10.09.2010
286.	Amnesty International: Thousands of Iraqi detainees at risk of torture after US handover	13.09.2010
287.	Amnesty International, New order, same abuses: Unlawful detentions and torture in Iraq	13.09.2010
288.	Radio Free Europe/Radio Liberty: Rights Group Says Torture, Abuses Routine in Iraqi Prisons	13.09.2010
289.	Voice of America News: Car Bombs Kill at Least 29 People in Iraq	19.09.2010

290.	IRIN: Refugees: UNHCR concerned over Iraqi deportations	29.09.2010
291.	International Reconstruction: Fund Facility for Iraq	30.09.2010
292.	UK Border Agency COIS Reports, Operational Guidance Note, Iraq v.6	01.10.2010
293.	UN High Commissioner for Refugees (UNHCR),Monthly Highlights, October	10.2010
294.	Congressional Research Service, The Kurds in Post-Saddam Iraq	01.10.2010
295.	UNAMI: UN expert calling for action on behalf of internally displaced persons in the Kurdistan Region of Iraq, Erbil - 03 October 2010	03.10.2010
296.	Congressional Research Service Iraq Casualties: US Military Forces and Iraqi Civilians, Police and Security Forces	07.10.2010
	Canadian Immigration and Refugee Board, Travel Report: Iraq	29.10.2011
297.	The Guardian: Iraq war logs reveal 15,000 previously unlisted civilian deaths	22.10.2010
298.	The Guardian: Wikileaks Iraq, data journalism maps every death	23.10.2010
299.	Iraq Body Count (IBC), Iraq War Logs: The truth is in the detail	23.10.2011
300.	International Crisis Group (ICG), Loose Ends: Iraq's Security Forces between US Drawdown and Withdraw	26.10.2010
301.	New York Times: A New Attitude in Sadr City (Slides)	29.10.2010
302.	New York Times: Baghdad's Shiite Heart Beats as War Ebbs	29.10.2010
303.	International Committee of the Red Cross (ICRC), Operational Update Nov - Dec 2010, Iraq: unexploded munitions put civilians at risk	11.2010
304.	Amnesty International, Denmark, Human rights violations and concerns in the context of counter-terrorism, immigration-detention, forcible return of rejected asylum seekers and violence against women	11.2010
305.	International Organisation for Migration (IOM UK), Governate Profiles	01.11.2010
306.	International Organisation for Migration (IOM UK), Iraq displacement reports, Special	01.11.2010

	focus – Disputed Internal Boundaries	
307.	Guardian: European court demands halt to forcible return of Iraqi asylum seekers	05.11.2010
308.	Guardian: Two asylum seekers deported to Baghdad and allegedly tortured were not Iraqi	10.11.2010
309.	Amnesty International Public Statement: European states must stop forced returns to Iraq	10.11.2010
310.	Council of Europe: Member states must respect ECHR decision on forced expulsions of Iraqis	16.11.2010
311.	US Department of State, International Religious Freedom Report 2010: Iraq	17.11.2010
312.	Guardian: Iranian wrongly deported to Baghdad claims he was tortured	21.11.2010
313.	Amnesty International: UK asylum removals to Iraq: Amnesty Response	23.11.2010
314.	United Nations (UN), Report of the Secretary-General pursuant to paragraph 6 of resolution 1936 (2010)	26.11.2010
315.	International Committee of the Red Cross (ICRC), Operational Update September – October 2010, Iraq: Civilians still enduring undue hardship	30.11.2010
316.	The Iraq Partners Forum, Iraq Briefing Book	12.2010
317.	UN High Commissioner for Refugees (UNHCR), Iraq Fact Sheet, December 2010	12.2010
318.	US Department of State, Iraq Status Report	01.12.2010
319.	Swedish Immigration Service, Delrapport fån utredningsresa till Irak – oktober/november 2010 (utsatta grupper – kristna), Migrationsverket 2010-12-09, Lifos 24184	09.12.2010
320.	International Organisation for Migration (IOM UK), IOM Emergency Needs Assessment, Displacement of Christians to the North of Iraq	15.12.2010
321.	UNHCR: UNHCR Dismayed at forced repatriation of Iraqis: reports increase in flight of Iraqi Christians	17.12.2010
322.	UN High Commissioner for Refugees (UNHCR), UNHCR reports increase in flight of Iraqi Christians; reiterates advice on protection needs	17.12.2010
323.	IRIN: Christian IDPs find refuge in Kurdish north	23.12.2010

324.	IRIN: Middle East: Iraqi refugees – interpreting the statistics	28.12.2010
325.	US Government Accountability Office, Accountability Office, Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees	12.2010
326.	Iraq Body Count (IBC), Iraqi deaths from violence in 2010	30.12.2010
327.	Iraq Body Count (IBC), Documented civilian deaths from violence	30.12.2010
328.	Chr Michelson Institute (CRI), Between Two Societies: Review of the Information, Return and Reintegration of Iraqi Nationals to Iraq (IRRINI) programme	2011
329.	International Organisation for Migration (IOM UK), IOM Iraq Newsletter - Volume I 2011 - Oct/Nov/Dec 2010	2011
330.	RAND, From Insurgency to Stability, Vol II: Insights from selected case studies	2011
331.	Social Watch, Social Progress and Environmental Damage, the Basic Capabilities index and CO2 emissions	2011
332.	Institute for Economics and Peace, Global Peace Index: Methodology, Results and Findings 2011	2011
333.	RAND, The 2008 Battle for Sadr City	2011
334.	UN Assistance Mission for Iraqi (UNAMI), 2010 Report on Human Rights in Iraq	01.2011
335.	International Organisation for Migration (IOM UK), IOM Iraq Newsletter, Vol II, 2011	01–03/2011
336.	International Organisation for Migration (IOM UK), IOM Iraq Newsletter, Vol II, 2011	01–03/2011
337.	UN High Commissioner for Refugees (UNHCR), UNHCR concerned at planned forced return from Sweden to Iraq	18.01.2011
338.	UNHCR: UNHCR seeks common sense European approach towards those fleeing violence	19.01.2011
339.	UN High Commissioner for Refugees (UNHCR), UNHCR seeks common sense European approach towards those fleeing violence	19.01.2011
340.	Human Rights Watch (HRW)Word Report 2011: Iraq	24.01.2011
341.	Radio Free Europe: Iraq Drafts Plan to Help IDPs, Refugees	26.01.2011
342.	Special Inspector General for Iraq	30.01.2011

	Reconstruction (SIGR), Quarterly Report and Semiannual Report to the United States Congress	
343.	Brookings, Iraq Index: Tracking Variables of Reconstruction & Security in Post-Saddam Iraq	31.01.2011
344.	International Organisation for Migration (IOM UK), Review of Displacement and Return in Iraq	02.2011
345.	Amnesty International. Broken Bodies, Tortured Minds: Abuse and Neglect of Detainees in Iraq	02.2011
346.	Inter Agency Information & Analysis Unit (IAU Iraq), Governorate Profiles 2011	02.2011
347.	International Institute for Strategic Studies, Armed Conflict Database	02.2011
348.	Guardian: G4S security firm was warned of lethal risk to refused asylum seekers	08.02.2011
349.	Institute for War and Peace Reporting (IWPR): City of Contrasts	08.02.2012
350.	Center for Strategic and International Studies (CSIS), Iraq: Patterns of Violence, Casualty Trends and Emerging Security Threats	09.02.2011
351.	Jane's Sentinel, Security Assessment: "The Gulf States: Security"	12.02.2012
352.	PLoS Medicine, 2011; 8 (2): e1000415, Violent Deaths of Iraqi Civilians, 2003–2008: Analysis by Perpetrator, Weapon, Time, and Location	15.02.2011
353.	Iraq Body Count (IBC), New Study: Analysis by Perpetrator, weapon, time and location (2003-2008)	16.02.2011
354.	United Nations (UN), Report of the Representative of the Secretary General on the human rights of internally displaced persons, Walter Kalin, Visit to Iraq	16.02.2011
355.	Refugees International, Iraq's displaced: a stable region requires stable assistance	16.02.2011
356.	Center for Strategic and International Studies (CSIS), A Threat Transformed, Al Qaeda and Associated Movements in 2011	20.02.2011
357.	Human Rights Watch: Iraq: Vulnerable Citizens at Risk	21.02.2011
358.	Human Rights Watch (HRW), Iraq: Vulnerable Citizens at Risk	21.02.2011
359.	Human Rights Watch (HRW), At a Crossroads: Human Rights in Iraq Eight	22.02.2011

	Years after the US-Led Invasion	
360.	International Committee of the Red Cross (ICRC), Iraq: Facts and Figures, January – December 2010	03.2011
361.	International Rescue Committee (IRC), Annual Report 2010 Iraq Country Programme	03.2011
362.	Jane's Sentinel, Security Assessment: The Gulf States: Non-State Armed Groups	21.03.2011
363.	UK Border Agency COIS Reports, Iraq Country of Origin Information (COI) Report March 2011	25.03.2011
364.	International Crisis Group (ICG), Iraq and the Kurds: Confronting Withdrawal Fears	28.03.2011
365.	Foreign and Commonwealth Office (FCO), Human Rights and Democracy: the 2010 Foreign and Commonwealth Office Report (extract)	31.03.2011
366.	United Nations (UN), Second report of the Secretary-General pursuant to paragraph 6 of resolution 1936 (2010)	31.03.2011
367.	International Organisation for Migration (IOM UK), IOM Iraq Newsletter, Vol III 2011	04-06/2011
368.	Inter Agency Information & Analysis Unit (IAU Iraq), Landmines and Unexploded Ordinance Factsheet	04.2011
369.	National Counter-Terrorism Command, Iraq's Civil Society in Perspective	04.2011
370.	UK Department for International Development (DFID), Iraq Operational Plan	04.2011
371.	UN High Commissioner for Refugees (UNHCR), Comments MOMD Comprehensive Plan to address Displacement in Iraq, Meeting of UN and International Organisations with GoI	05.04.2011
372.	US Department of State, 2010 Country Reports on Human Rights Practices: Iraq	08.04.2011
373.	Amnesty International, Days of rage: Protests and Repression in Iraq - Testimonies/Case Studies	12.04.2011
374.	Iraq Business News: AKE Security, Sticky Bombs on the Rise	19.04.2011
375.	National Counter-Terrorism Center, 2010 Report on Terrorism	30.04.2011
376.	Special Inspector General for Iraq Reconstruction (SIGR), Quarterly Report to the United States Congress	30.04.2011
377.	Oxfam, Protection of civilians in 2010: Facts,	05.2011

figures, and the UN Security Council's response
378. Amnesty International, Denmark: Human Rights violations and concerns in the context of counter-terrorism, immigration-detention, forcible return of rejected asylum seekers and violence against women 05.2011
379. InterSOS, Providing Fair Protection Processes and Documentation for Internally Displaced and Host Communities: The Experience of the Protection and Assistance Centers (PACs) in Southern Iraq 05.2011
380. US Commission on Religious Freedom (ISCIRF), Annual Report 2011 05.2011
381. InterSOS, Addressing the legal needs of the displaced in Southern Iraq 05.2011
382. UN High Commissioner for Refugees (UNHCR), Iran, Return Guide for the Voluntary Repatriation of Iraqis 05.2011
383. Institute for War and Peace Reporting (IWPR): Iraqis' Mixed Emotions Over Bin Laden's Death 06.05.2011
384. Freedom House Freedom in the World 2011: Iraq 12.05.2011
385. Amnesty International, Amnesty International Annual Report 2011 - Iraq 13.05.2011
386. International Federation of Red Cross and Red Crescent Societies (IFRC), Annual Report Iraq 2010 17.05.2011
387. IRIN: Iraq, Preparing for a possible returnee influx 18.05.2011
388. InterSOS, Stories from the Protection and Assistance Centers of Iraq 25.01.2011
389. US Department of State, Strengthening Iraq: Fact Sheet 19.05.2011
390. iCasualties List of US fatalities as of May 28 2010 28.05.2011
391. Danish Immigration Service Iranian Kurdish Refugees in the Kurdistan Region of Iraq (KRI) 06.2011
392. UN High Commissioner for Refugees (UNHCR), Global Report 2010: Iraq 06.2011
393. Inter Agency Information & Analysis Unit (IAU Iraq), Urban Baghdad: Impact of conflict on daily life 06.2011
394. Internal Displacement Monitoring Centre (IDMC), Iraq: IDPs and their prospects for durable solutions 06.2011

395.	International Organisation for Migration (IOM UK), IOM Iraq Newsletter, Vol IV 2011	06-09/2011
396.	British Embassy Baghdad: ISSUE: Foreign contractors/risk to western collaborators in Baghdad and Iraq	01.06.2011
397.	Radio Free Europe/Radio Liberty: Multiple bombings in Ramadi leave at least five dead	02.06.2011
398.	Radio Free Europe/Radio Liberty: At least 17 killed in blast at mosque in Iraq's Tikrit	03.06.2011
399.	Middle East Institute, Displacement and National Institutions: Reflections on the Iraqi experience	06.06.2011
400.	Office of the High Commissioner for Human Rights (OHCHR), UN official urges stronger action to protect Iraqi civilians	07.06.2011
401.	Middle East Institute, Iraqi Refugee and IDPs: From Humanitarian Intervention to Durable Solutions	09.06.2011
402.	Radio Free Europe/Radio Liberty: Six killed in bombings in Iraq's Mosul	11.06.2011
403.	Radio Free Europe/Radio Liberty: Car bombs kill more than 20 in central Iraq	21.06.2011
404.	UN High Commissioner for Refugees (UNHCR), Iraq Fact Sheet, May 2011	21.06.2011
405.	Radio Free Europe/Radio Liberty: Baghdad Market Blasts Kill at Least 21	23.06.2011
406.	Radio Free Europe/Radio Liberty: Iraq Suicide Attack Kills At Least Two	26.06.2011
407.	Foreign and Commonwealth Office (FCO)Quarterly Update on Iraq, 30 December 2011, 30 September 2011, 30 June 2011, 31 March 2011	30.06.2011
408.	National Geographic: Baghdad After the Storm	07.2011
409.	Minority Rights Group International, State of the World's Minorities and Indigenous People 2011, Events of 2010	07.2011
410.	UN High Commissioner for Refugees (UNHCR), Safe at Last? Law and Practice in Selected EU Member States with respect to asylum-seekers fleeing indiscriminate violence	07.2011
411.	Radio Free Europe/Radio Liberty: U.S. general warns insurgent attacks threaten Iraq	05.07.2011
412.	United Nations (UN), Third report of the Secretary-General pursuant to paragraph 6	07.07.2011

	of resolution 1936 (2010)	
413.	Iraq Business News: AKE Security, Safety in Kurdistan	08.07.2011
414.	Institute for War and Peace Reporting (IWPR): New Role for Najaf	13.07.2011
415.	Congressional Research Service, Iraq: Politics, Governance and Human Rights	15.07.2011
416.	IRIN: Iraq: Youth unemployment driving emigration	20.07.2011
417.	United States Agency for International Development (USAID), Iraq, Complex Emergency	26.07.2011
418.	UN High Commissioner for Refugees (UNHCR): UNHCR assists hundreds of displaced Iraqis at border with Iran	27.07.2011
419.	British Embassy Baghdad: ISSUE: Freedom of Movement and Requirements to Transfer Personal Documentation in Order to Relocate in Iraq	27.07.2011
420.	Ministry of Transport: The opening of Mosul International Airport	28.07.2011
421.	Special Inspector General for Iraq Reconstruction (SIGR), Quarterly Report and Semiannual Report to the United States Congress	30.07.2011
422.	International Organisation for Migration (IOM UK), IOM Country Fact Sheet, Iraq	08.2011
423.	UN High Commissioner for Refugees (UNHCR), UNHCR Iraq Refugee Returnee Monitoring: 2011 Mid Year Report and UNHCR, Iraq Fact Sheet, June – July 2011	08.2011
424.	Internal Displacement Monitoring Centre (IDMC), Unlocking protracted displacement: An Iraqi case study	08.2011
425.	Radio Free Europe/Radio Liberty: Car bomb attack targets church in northern Iraq, injures 14	02.08.2011
426.	Press Release: UNAMI and UN Office of the High Commissioner for Human Rights : 2010 Report on Human Rights in Iraq: Human rights situation in Iraq remains fragile	08.08.2011
427.	Congressional Research Service, Iraq: Politics, Governance and Human Rights	09.08.2011
428.	International Organisation for Migration (IOM UK), IOM Iraq Newsletter, Vol I, 2012	10-12/2011
429.	USATODAY.COM: Iraq army delays pullout from cities over security	08.10.2011

430.	Radio Free Europe/Radio Liberty: Dozens killed in Iraq bombings	15.08.2011
431.	UN News Service: UN officials condemn wave of deadly bombings across Iraq	15.08.2011
432.	Congressional Research Service, Iraq Map Sources	15.08.2011
433.	UN News Service: Deploring deadly blasts in Iraq, Security Council urges punishment of perpetrators	18.08.2011
434.	US Department of State, Country Reports on Terrorism 2010: Iraq	18.08.2011
435.	Radio Free Europe/Radio Liberty: Turkish Army Says Up To 100 Kurdish Rebels Killed in Northern Iraq	23.08.2011
436.	Radio Free Europe/Radio Liberty: At least 28 dead in Baghdad mosque attack	28.08.2011
437.	Congressional Research Service, Iraq: Politics, Governance and Human Rights	29.08.2011
438.	UK Border Agency COIS Reports, Iraq Country of Origin Information (COI) Report August 2011	30.08.2011
439.	IWPR: Hard Times for Iraqis Fleeing Unrest Elsewhere	31.08.2011
440.	IWPR: US Troops Face New Threat from Iraqi Shia Militia	31.08.2011
441.	Center for Strategic and International Studies (CSIS), Confronting an Uncertain Threat: The Future of Al Qaeda and Associated Movements	09.2011
442.	The Lancet Journal, Casualties in civilians and coalition soldiers from suicide bombings in Iraq, 2003 – 2010: a descriptive study	01.09.2011
443.	Iraq Body Count (IBC), Casualties of suicide bombings in Iraq, 2003-2010	03.09.2011
444.	US Department of State, July-December, 2010 International Religious Freedom Report: Iraq	13.09.2011
445.	Radio Free Europe/Radio Liberty: Gunmen kill 22 Shi'ite pilgrims in Iraq	13.09.2011
446.	Iraq Business News, AKE Security: A Return of Illegal Checkpoints	13.09.2011
447.	Radio Free Europe/Radio Liberty: Bomb attacks against Iraq security forces Kill 17	14.09.2011
448.	Internal Displacement Monitoring Centre (IDMC), Iraq: Response still centred on return despite increasing IDP demands for local integration	23.09.2011
449.	Radio Free Europe/Radio Liberty: Multiple	25.09.2011

	explosions reported in Iraqi shrine city of Karbala	
450.	International Crisis Group (ICG), Failing Oversight: Iraq's Unchecked Government	26.09.2011
451.	International Crisis Group (ICG), Iraq's New Battlefront: The Struggle over Ninewa	28.09.2009
452.	Congressional Research Service Iraq: Politics, Governance and Human Rights	30.09.2011
453.	National Counter-Terrorism Command, Political, Humanitarian, and Military Frameworks in the Iraqi Disputed Territories on the Eve of US withdrawal	10.2011
454.	Radio Free Europe/Radio Liberty: Iraqi security forces end hostage crisis, casualties reported	03.10.2011
455.	UN High Commissioner for Refugees (UNHCR), Refugees Return to Baghdad, September 2010 – August 2011	03.10.2011
456.	UN High Commissioner for Refugees (UNHCR), IDPs Return to Baghdad, September 2010 – August 2011	03.10.2011
457.	UN High Commissioner for Refugees (UNHCR), Total Return to Iraq September 2010 – August 2011	03.10.2011
458.	UN High Commissioner for Refugees (UNHCR), Total IDPs return to Iraq, September 2010 – August 2011	03.10.2011
459.	United Nations (UN), Report of the Secretary-General pursuant to paragraph 6 of resolution 2001 (2011)	28.11.2011
460.	Voice of America News: Series of Baghdad Bombings Kill at Least 25	12.10.2011
461.	Iraq Business News, Iraq controls own airspace for first time since 2003	12.10.2011
462.	IWPR: Iraqi Kurds offer Christians a Sanctuary	12.10.2011
463.	Iraq Business News, US Helps build safe and efficient rail system	13.10.2011
464.	UN High Commissioner for Refugees (UNHCR), Asylum Levels and Trends in Industrialized Countries: Statistical overview of asylum applications lodged in Europe and selected non-European countries	18.10.2011
465.	British Embassy Baghdad: Entry Procedures for UK Returnees	19/10/2011
466.	Voice of America News: US Withdrawal Raises Questions of a Vacuum in Iraq	21.10.2011

467.	Center for Strategic and International Studies (CSIS), Iraq and US Strategy in the Gulf	24.10.2011
468.	Voice of America News: Iraq Car Bombs Kill at Least 5	26.10.2011
469.	Brookings, Index of State Weakness in the Developing World	27.10.2011
470.	The Guardian: Double bomb attack strikes Iraqi capital	28.10.2011
471.	Special Inspector General for Iraq Reconstruction (SIGR), Quarterly Report to the United States Congress	30.10.2011
472.	Brookings, From Responsibility to Response: Assessing National approaches to internal displacement	11.2011
473.	UNHCR: Response to inquiry regarding returnees/deportees: documentation, assistance and conditions at Baghdad Airport	03.11.2011
474.	Iraq Business News, AKE Security: Mapping Violence in Iraq	05.11.2011
475.	Radio Free Europe/Radio Liberty: At Least 12 Killed As Blasts Rock Baghdad	06.11.2011
476.	The Guardian: Triple Blast hits Baghdad Market	06.11.2011
477.	Voice of America News: Bomb Blasts in Central Baghdad Leave Eight Dead	06.11.2011
478.	International Committee of the Red Cross:Iraq: ICRC delivering more aid where it is needed most	08.11.2011
479.	Congressional Research Service, Iraq: Politics, Governance and Human Rights	10.11.2011
480.	Congressional Research Service Iraq: Politics, Governance and Human Rights	10.11.2011
481.	European Commission Humanitarian, Aid & Civil Protection Humanitarian Implementation Plan (HIP): Iraq Crisis	11.11.2011
482.	UK Home Office, Proscribed terrorist groups	11.11.2011
483.	Christian Science Monitor: As US exits Iraq, a top general's warning	21.11.2011
484.	Mawtani.com, International companies invest in six Iraqi shopping centres	21.11.2011
485.	UK Border Agency COIS Reports, Bulletin – Collation of IGC Member States' Responses to Returns to Iraq	22.11.2011
486.	UKBA: Iraq bulletin – Collation of IGC Member States' Responses on Returns to Iraq	22.11.2011

dated 22 November 2011

487.	Voice of America News: Three Bombings Kill 19, Injure 65 in Southern Iraq	24.11.2011
488.	Voice of America News: Baghdad Bombings Kill 15	26.11.2011
	Voice of America News: Iraqi Violence Kills 22	28.11.2011
489.	Center for Strategic and International Studies (CSIS), The Outcome of Invasion: US and Iranian Strategic Competition in Iraq	28.11.2011
490.	Minority Rights Group International, Iraq's Minorities: Participation in Public Life	28.11.2011
491.	Brookings, Iraq Index: Tracking Variables of Reconstruction and Security in Post-Saddam Iraq	30.11.2011
492.	UN High Commissioner for Refugees (UNHCR), Iraq Operation, Statistical Report on UNHCR Registered Iraqis and Non-Iraqis	30.11.2011
493.	Iraq Knowledge Network, Essential Services Fact Sheet	12.2011
494.	UK Border Agency COIS Reports, Operational Guidance Note: Iraq	12.2011
495.	Iraq Knowledge Network, Labour force fact sheet	12.2011
496.	Voice of America News: New, Deadly Attacks Rattle Iraqi Province	01.12.2011
497.	Voice of America News: Iraq Bombings Kill 28 Shi'ite Pilgrims	05.12.2011
498.	Integrated Regional Information Network News (IRIN): Iraq: Overall violence down - but attacks on minorities continue	05.12.2011
499.	United Nations: "Withdrawal of United States forces in Iraq at year's end will give Iraqis chance to prove themselves, but entails many challenges", UN envoy tells Security Council	06.12.2011
500.	Congressional Research Service, Iraq: Politics, Governance and Human Rights	06.12.2011
501.	UK House of Commons, The Terrorism Act 2000: Proscribed Organisations	07.12.2011
502.	Institute for War and Peace Reporting (IWPR): Sunni Separatist Fears as US Troops Leave Iraq	07.12.2011
503.	McClatchy Newspapers: Huge numbers of Iraqis still adrift within the country	11.12.2011
504.	New York Times: Junkyard Gives up Secret Accounts of Massacre in Iraq	14.12.2011

505.	International Committee of the Red Cross (ICRC) Iraq: People living in rural areas remain among the most affected	14.12.2011
506.	Center for Strategic and International Studies (CSIS), Iraq: Putting US Withdrawal in Perspective	15.12.2011
507.	National Public Radio (NPR): There's No Going Home For Iraqi Squatters	17.12.2011
508.	New York Times: Iraq After the US military withdrawal	18.12.2011
509.	NPR, "The IED: The $30 bombs that cost the US billions"	18.12.2011
510.	National Public Radio (NPR): Former Envoy to Iraq says situation still 'very fragile'	18.12.2011
511.	Voice of America News: Crumbling Infrastructure Slows Iraqi Growth	19.12.2011
512.	Human Rights Watch (HRW)Iran/Turkey: Recent Attacks on Civilians in Iraqi Kurdistan	20.12.2011
513.	The Guardian: Sunni leaders warn of sectarian chaos in Iraq	20.12.2011
514.	Human Rights Watch: Iran/Turkey: Recent Attacks on Civilians in Iraqi Kurdistan At Least a Dozen Dead; Thousands Displaced Since July	20.12.2011
515.	Foreign Policy News: The Damage Done	21.12.2011
516.	Reuters Alertnet FACTBOX – Security developments in Iraq	21.12.2011
517.	The Guardian: Baghdad car bomb attack rips through Iraq's already failing hopes	22.12.2011
518.	Radio Free Europe/Radio Liberty: Scores Killed In Wave Of Bombings In Baghdad	22.12.2011
519.	Human Rights Watch: Iraq: Deadly Bombings an Assault on Human Rights	22.12.2011
520.	Institute for War and Peace Reporting (IWPR): Conflict Fears as Iraqi Power Balance crumbles	22.12.2011
521.	BBC News: Dozens killed in co-ordinated Baghdad attacks	22.12.2011
522.	Foreign and Commonwealth Office (FCO)Travel Advice, Iraq	23.12.2011
523.	US Department of State, Travel Advice, Iraq	23.12.2011
524.	Brookings, Iraq on the Brink	24.12.2011
525.	Brookings, Understanding the Iraq Crisis	24.12.2011
526.	Newsweek Magazine, "Iraq: Baghdad without America"	26.12.2011
527.	BBC News: Iraq interior ministry hit by suicide bomber	26.12.2011

528.	Reuters Alertnet: FACTBOX – Security developments in Iraq	26.12.2011
529.	Reuters: Suicide bomber kills seven outside Iraq ministry	27.12.2011
530.	Congressional Research Service Iraq: Politics, Governance and Human Rights	27.12.2011
531.	The Guardian: Al-Qaeda Claims Responsibility for Baghdad Bombings	27.12.2011
532.	Center for Strategic and International Studies (CSIS), The Broader Crisis in Iraq	27.12.2011
533.	Radio Free Europe/Radio Liberty: Al-Qaida claims responsibility for Baghdad blasts	27.12.2011
534.	Agence France-Presse: Iraq, Suicide car bomb outside Baghdad hospital kills 31	27.12.2011
535.	Reuters Alertnet: FACTBOX – Security developments in Iraq	28.12.2011
536.	Voice of America News: Analysts: Al-Qaida in Iraq Aims to Stir Sectarian Strife	29.12.2011
537.	Integrated Regional Information Networks News (IRIN): Analysis: Worrying signs for Iraq's stability as USA pulls out	30.12.2011
538.	International Organisation for Migration (IOM UK), IOM Iraq Newsletter, Vol I, 2012	2012
539.	International Organisation for Migration (IOM UK), IOM Mission in Iraq, 2003 – 2011	2012
540.	UN High Commissioner for Refugees (UNHCR), Monthly Statistical Update on Return	01.2012
541.	Danish Refugee Council, Local Humanitarian Accountability Framework (HAF) Iraq 2012	01.2012
542.	Reuters Alertnet: FACTBOX – Security developments in Iraq	01.01.2012
543.	Human Rights Watch (HRW), Iraq: Country Summary	01.01.2012
544.	Radio Free Europe/Radio Liberty: 'Iraqi Civilian Deaths Increase In 2011'	02.01.2012
545.	Iraq Body Count (IBC), Iraqi deaths from violence 2003–2011	02.01.2012
546.	Reuters Alertnet: FACTBOX – Security developments in Iraq	03.01.2012
547.	Reuters Alertnet: FACTBOX – Security developments in Iraq	04.01.2012
548.	Amnesty International: Iraq: Amnesty International condemns latest killings of civilians	05.01.2012
549.	The Guardian: Iraq suicide attack kills 30	05.01.2012
550.	The Guardian: Iraq's shias targeted in deadly	05.01.2012

	bomb blasts	
551.	Voice of America News: Scores Dead as Bombings Shake Iraq During Political Crisis	05.01.2012
552.	Amnesty International: Iraq: Amnesty International condemns latest killings of civilians	05.01.2012
553.	Reuters: Roadside bomb kills five in southern Iraq: police	05.01.2012
554.	Radio Free Europe/Radio Liberty: Sectarian Violence Worsens in Iraq Amid Political Crisis	05.01.2012
555.	IRIN, New government plans to tackle population displacements	05.01.2011
556.	Agence France Presse: Rockets his Green Zone as Iraq marks Army Day	06.01.2012
557.	Reuters Alertnet: FACTBOX Security Developments in Iraq	08.01.2012
558.	USCIRF: USCIRF Condemns Attacks on Shi'ite Pilgrims in Iraq	09.01.2012
559.	Amnesty International: Year of rebellion: The state of human rights in the Middle East and North Africa (Iraq excerpt)	09.01.2012
560.	US Commission on International Religious Freedom: USCIRF Condemns Attacks on Shi'a Pilgrims in Iraq	09.01.2012
561.	Voice of America News: Baghdad Bombs Target Shi'ite Pilgrims, 16 Killed	09.01.2012
562.	Agence France Presse: Attacks in Iraq, wound 15 Afghan pilgrims	09.01.2012
563.	US Commission on International Religious Freedom: USCIRF Condemns Attacks on Shi'a Pilgrims in Iraq	09.01.2012
564.	International Committee of the Red Cross (ICRC), Persons detained by the US in relation to armed conflict and the fight against terrorism – the role of the ICRC	09.01.2012
565.	BBC News: Iraq Profile	10.01.2012
566.	Reuters Alertnet: Security developments in Iraq	11.01.2012
567.	Iraq Business News: New Railway opened between Karbala and Musayyib	12.01.2012
568.	Reuters Alertnet: Security developments in Iraq	12.01.2012
569.	Foreign Policy: My Mesopotamian Getaway	13.01.2012
570.	Radio Free Europe/Radio Liberty: Suicide Bomber Kills At Least 50 Shi'ite Pilgrims'	14.01.2012
571.	Reuters: Timeline: Deadliest attacks in Iraq last year	14.01.2012

572.	Reuters: Attack on Iraqi Pilgrims kills 50, scores hurt	14.01.2012
573.	The Guardian: Seven Iraqi police officers killed after gunmen storm government compound	15.01.2012
574.	Reuters: Ten dead in militant attack in Iraq's Ramadi	15.01.2012
575.	Christian Science Monitor: Shiite and Sunni: What are the differences	15.01.2012
576.	Reuters: Car Bombs Kill At Least 9 in Iraq's Mosul	16.01.2012
577.	The Guardian: Iraq: What next for a corrupt and divided country	16.01.2012
578.	UK Foreign and Commonwealth Office (FCO): Human Rights in Countries of Concern: Quarterly Update on Iraq, October to December 2011	16.01.2012
579.	Foreign and Commonwealth Office (FCO): Human Rights in Countries of Concern: Quarterly Update on Iraq, October to December 2011	16.01.2012
580.	COI Service: Iraqi Civil ID Cards and residency, enclosing: Note of meeting with Hassanain Hadi Fadhil, Second Secretary , Embassy of the Republic of Iraq, London	16.01.2012
581.	Institute for War and Peace Reporting (IWPR): Alarm as Shia Paramilitaries Enter Politics	17.01.2012
582.	Voice of America News: Allawi: Iraq Heading Toward Sectarian War	18.01.2012
583.	National Public Radio: After 20 Years, An Iraqi Returns to a Changed Land	19.01.2012
584.	Integrated Regional Information Networks News (IRIN): Iraq: People consider fleeing as violence increases	19.01.2012
585.	Amnesty International, Year of rebellion: The state of human rights in the Middle East and North Africa (Iraq excerpt)	19.01.2012
586.	Institute for War and Peace Reporting (IWPR): Shia Casualties Rise after American Withdrawal	21.01.2012
587.	Reuters: Iraq risks slipping into authoritarianism – rights group	22.01.2012
588.	British Embassy Baghdad: ISSUE: Renewal or Reissuance of a Civil Status ID card and Provisions to Change Place Of Residence in	22.01.2012

	Iraq	
589.	Erbil International Airport: News and Notices, Press Notice 2011 results EIA exceeds its targets as it records +37% growth in passenger numbers	22.01.2012
590.	Reuters: Car bombs kill 14, wound 75 in Iraq capital	24.01.2012
591.	Radio Free Europe/Radio Liberty: At Least 14 Killed, Scores Hurt In Baghdad Bombings	24.01.2012
592.	Thomson Reuters Alertnet: Iraqis condemn US Haditha sentence as insult	24.01.2012
593.	Agence France Presse: Bombs in and around Baghdad kill 12	24.01.2012
594.	Radio Free Europe/Radio Liberty: Militia Leader Reported Killed In Baghdad	25.01.2012
595.	Radio Free Europe/Radio Liberty: Attack On Iraqi Policemen's Home Kills 10 On Violent Day	26.01.2012
596.	The Telegraph: Iraq sectarian war flares as 32 killed in suicide attack on funeral procession	27.01.2012
597.	Voice of America News: Car Bomb Kills 31 in Shiite Neighbourhood of Baghdad	27.01.2012
598.	Radio Free Europe/Radio Liberty: Violence Soars As Political Crisis Paralyzes Iraq	27.01.2012
599.	BBC News Middle East: Car Bomb attack near funeral in Baghdad kills 32 people	27.01.2012
600.	Reuters Alertnet: TIMELINE – Deadliest attacks in Iraq last year	27.01.2012
601.	Reuters Alertnet; Iraq Factbox – Security Developments in Iraq	27.02.2012
602.	Iraq Business News, AKE: Security Statistics from 2011	28.01.2012
603.	Reuters Alertnet; Iraq Factbox – Security Developments in Iraq	28.01.2012
604.	International Organisation for Migration (IOM UK), IOM provides emergency assistance to families affected by bombing in Baghdad	28.01.2012
605.	Special Inspector General for Iraq Reconstruction (SIGR), Quarterly Report and Semiannual Report to the United States Congress	30.01.2012
606.	International Organisation for Migration (IOM UK), IOM Emergency Needs Assessments - Update, Displacement of Christians to the North of Iraq	31.01.2012
607.	Brookings, Iraq Index: Tracking Variables of	02.2012

	Reconstruction & Security in Iraq	
608.	Carnegie Endowment, The State of Iraq	02.2012
609.	BBC News Middle East: Iraq executes 17 people days after UN rebuke	01.02.2012
610.	Swiss Confederation, Department of Justice and Police, Report on Joint Finnish-Swiss Fact Finding Mission to Amman and the Kurdish Regional Government (KRG) Area, May 10 -22 2011	01.02.2012
611.	LIFOS, Joint Swiss-Finnish FFM to Amman and the Kurdish Regional Government, May 2011	01.02.2012
612.	Reuters Alertnet: Iraq civilian deaths rise in January-govt figures	01.02.2012
613.	Reuters Alertnet; Iraq Factbox – Security Developments in Iraq	01.02.2012
614.	Reuters Alertnet; Iraq Factbox – Security Developments in Iraq	05.02.2012
615.	Center for Strategic and International Studies (CSIS), Iraq and the Challenge of Continuing Violence	06.02.2012
616.	Musings on Iraq, January 2012: Security Statistics Undermine case that Iraq is heading towards New Civil War	06.02.2012
617.	Reuters Alertnet: Iraq Factbox – Security Developments in Iraq	07.02.2012
618.	Human Rights Watch: 'Iraq: 65 Executions in First 40 Days of 2012'	08.02.2012
619.	Institute for War and Peace Reporting (IWPR): Western Province Sides with Syrian Uprising	09.02.2012
620.	Human Rights Watch (HRW), Iraq: 65 Executions in First 40 Days of 2012	09.02.2012
621.	Iraq Business News: Iraq to clamp down on security contractor	10.02.2012
622.	BBC News Middle East: Turkey 'bombs hideouts of Kurdish rebels PKK'	12.02.2012
623.	Washington Institute for Near East Policy: A Violent New Year in Iraq	16.02.2012
624.	Reuters: Iraq inquiry blames Sunni VP death squads for attacks	16.02.2012
625.	Reuters: Suicide attack on Baghdad police academy kills 19	19.02.2012
626.	BBC News Middle East: Iraq gun and bomb attacks hit Baghdad and Baquba	19.02.2012
627.	IRIN, Iraq: Government vows to improve food aid system	21.02.2012
628.	Christian Science Monitor: As Al Qaeda	21.02.2012

	moves fight to Syria, violence in Iraq drops sharply	
629.	Brookings, From National Responsibility to Response – Part i: General Conclusions on IDP Protection	21.02.2012
630.	Iraq Business News, AKE: Weekly Security Update	22.02.2012
631.	Brookings, From National Responsibility to Response – Part ii: IDPs Housing, Land and Property Rights	22.02.2012
632.	Aljazeera: Dozens dead in wave of Iraq attacks	23.02.2012
633.	Reuters: Timeline: Deadliest attacks in Iraq in last year	23.02.2012
634.	Institute for War and Peace Reporting: Iraq stunned by Bombing Wave	23.02.2012
635.	Congressional Research Service Iraq: Politics, Governance and Human Rights	23.02.2012
636.	New York Times: Iraq	24.02.2012
637.	Reuters: Iraq attacks kill 60, raise sectarian fears	24.02.2012
638.	Reuters: Iraqi al Qaeda claims country-wide attacks	24.02.2012
639.	Iraq Business News: Turkish Airlines increases to 4 flights/week to Basra	28.02.2012
640.	United Nations (UN), Human Rights Council: Joint written statement: Children of Iraq and Armed Conflicts	28.02.2012
641.	United Nations (UN), Human Rights Council: Joint written statement: Detention and Rule of Law in Iraq	28.02.2012
642.	United Nations (UN), Human Rights Council: Joint written statement: Iraqi children healt situation	28.02.2012
643.	Thomson Reuters Alertnet: Iraq Sunni insurgents keep fighting after U.S. pullout	29.02.2012
644.	BBC News Middle East: Iraq car bomb leaves three dead in Baghdad	29.02.2012
645.	Danish Immigration Service, Joint Report of the Danish Immigration Service/UKBA Fact Finding Mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI), Conducted 11-22 November 2011	03.2012
646.	Human Rights Watch: Iraq: Intimidation at Anniversary Protests	01.03.2012
647.	Radio Free Europe/Radio Liberty: Iraqi Civilian Deaths Increase in 2011	02.03.2012
648.	Iraq Business News, AKE: Attacking the	05.03.2012

	police	
649.	British Embassy Baghdad: Entry Procedures for UK Returnees	05.03.2012
650.	British Embassy Baghdad: ISSUE: Mixed Sunni/Shia Marriages	05.03.2012
651.	Aljazeera: Iraqi forces targeted in deadly attacks	05.03.2012
652.	The Guardian: Al-Qaida kill 25 Iraqi police officers	05.03.2012
653.	Reuters: Gunmen kill 27 in raids on west Iraq	05.03.2012
654.	BBC News Middle East: Iraq attacks in Haditha Kill 27 Policemen	05.03.2012
655.	iCasualties Iraqi Coalition Casualties: Contractors – a partial list	06.03.2012
656.	Center for Strategic and International Studies (CSIS), The Outcome of Invasion: US and Iranian Strategic Competition in Iraq	08.03.2012
657.	ASSIST News Service (USA), Iraqi Teenagers Stoned to Death for Western Dress and 'emo' Haircuts	12.03.2012
658.	Radio Free Europe/Radio Liberty: More Than A Dozen Killed In Iraqi Robbery, Other Attacks	12.03.2012
659.	Iraqi LGBT (UK): Militias massacre sexual minorities and Emo's in Iraq	15.03.2012
660.	Inter Press Service News Agency: Those Bodies in Baghdad Are of Gay Men	16.03.2012
661.	Radio Free Europe/Radio Liberty: At Least 45 Killed In Series Of Blasts Across Iraq	20.03.2012
662.	Voice of America News: Explosions Across Iraq Kill Dozens	20.03.2012
663.	46 killed in attacks in 8 Iraq cities ahead of Arab summit	20.03.2012
664.	US House of Representatives Committee on Foreign Affairs, Halting the Descent: U.S. Policy toward the Deteriorating Situation in Iraq (Testimony of Kimberly Kagan, Institute for the Study of Way)	21.03.2012
665.	Barnabas Aid (UK): Bombed Iraqi church reopens but anti-Christian attacks continue	27.03.2012
666.	Inter Press Service News Agency (IPS): Exit Americans, Enter Sectarian Strife	27.03.2012
667.	International Committee of the Red Cross (ICRC), Iraq: Facts and Figures, January – December 2011	29.03.2012
668.	Reporters Sans Frontieres (Reporters	03.04.2012

	Without Borders): Car bomb kills TV presenter in Tikrit	
669.	Associated Press: Iraq's reconciliation conference postponed	04.04.2012
670.	UK Border Agency COIS Reports, Thematic Country of Origin Information (COI) Report, COI Service, Treatment of Persons Returning to Iraq, including failed asylum seekers; the situation of internally displaced persons and procedures to re-obtain documentation to access services and facilitate internal movement	04.04.2012
671.	Arabic Network for Human Rights Information (ANHRI): Iraq: Iraqi journalist killed by an explosive device in Tikrit	05.04.2012
672.	Iraq Business News: Weekly Security Updates	06.04.2012
673.	Iraq Body Count (IBC), Documented civilian deaths from violence	07.04.2012
674.	British Embassy Baghdad: ISSUE: Re-documentation Procedures	07.04.2012
675.	British Embassy Baghdad: ISSUE: Indiscriminate Violence in Iraq	07.04.2012
676.	British Embassy Baghdad: ISSUE: Monitoring of Returnees to Baghdad International Airport (BIAP)	08.04.2012
677.	British Embassy Baghdad: ISSUE: Returns Procedure for UK failed asylum seekers	08.04.2012
678.	Inter Press Service News Agency (IPS): Those Laboratory Mice Were Children	13.04.2012
679.	ALERTNET - ADD – Iraq's sunni insurgnts keep fightin tafter US pull out	13.04.2012
680.	News Times: Roadside bomb kills 2 policemen in Iraq	14.04.2012
681.	USA Today: Officials: 5 killed in Iraq attacks	15.04.2012
682.	Associated Press: Iraq: Gunmen kill 4 Shiite farmers near Baghdad	16.04.2012
683.	Newsday: Iraq: Gunmen kill 4 Shiite farmers near Baghdad	16.04.2012
684.	International Federation of Red Cross and Red Crescent Societies (IFRC), Humanitarian Needs of Iraq's Population	18.04.2012
685.	iCasualties ICasualties, Iraqi Coalition	18.04.2012

	Casualties: Fatalities by year	
686.	BBC News: Deadly blasts hit Baghdad, Kirkuk and other Iraq cities	19.04.2012
687.	UN Assistance Mission for Iraqi (UNAMI), Top UN Envoy in Iraq Condemns wave of bomb attacks across the country	19.04.2012
688.	Congressional Research Service, Iraq: Politics, Governance and Human Rights	19.04.2012
689.	Voice of America: Bombings Kill 24 in Baghded, Northern Iraq	19.04.2012
690.	International Crisis Group (ICG), Iraq and the Kurds: The High-Stakes Hydrocarbons Gambit	19.04.2012
691.	Canadian Immigration and Refugee Board, Travel Report: Iraq	20.04.2012
692.	British Embassy Baghdad: ISSUE: Mixed Sunni/Shia marriages	20.04.2012
693.	Foreign and Commonwealth Office (FCO)Travel Advice, Iraq	22.04.2012
694.	iCasualties ICasualties, Iraqi Coalition Casualties: Fatalities by province	22.04.2012
695.	Kurdistan Regional Government, Department of Foreign Relations 'Residence'	27.04.2012
696.	Guardian, Iraqi Parliament refuses to accept nationals deported from Europe	02.07.2012
697.	Brookings, National and Regional Laws and Policies on Internal Displacement, Iraq	Undated
698.	International Organisation for Migration (IOM UK)About IOM UK	Undated
699.	International Organisation for Migration (IOM UK)What we do, Sustainable livelihoods	Undated
700.	International Organisation for Migration (IOM UK)What we do, Monitoring and Assessment	Undated
701.	International Organisation for Migration (IOM UK)The Story of Zahra'a	Undated
702.	Minorities Councils, About Us and Internal Bylaw	Undated
703.	Minorities Councils, NGO Home page, Map showing areas of Iraq's minorities	Undated
704.	Office of the High Commissioner for Human Rights (OHCHR), Report of the Special Rapporteur on extrajudicial summary or arbitrary executions Summary of cases transmitted to Governments and replies received (Iraq excerpt)	Undated

705.	Prism 1. No 2., An interview with Raymond T. Odierno	Undated	
706.	Quandil, Web Page	Undated	
707.	Refugee Action, Choices, Assisted Voluntary Return Programme	Undated	
708.	Refugee Action, Choices, Further Information English	Undated	
709.	Refugee Action, Stories of Return to Iraqi Kurdistan	Undated	(Circa 2011)
710.	UN High Commissioner for Refugees (UNHCR), UNHCR returnee assistance in country of asylum by regional UNHCR offices	Undated	(circa 2010)
711.	UN High Commissioner for Refugees (UNHCR), Significant Achievements in 2009	Undated	(circa 2010)
712.	UN High Commissioner for Refugees (UNHCR), Iraq: 2010 UNHCR country operations profile	Undated	
713.	Iraq Civil Aviation Authority, Iraqi Airports	Undated	
714.	Voice of America News: Bombings Rock Baquba Ahead of Iraq Elections	Undated	
715.	Hansard: Asylum Claims on 16 June 2003: News Release: Asylum Numbers Down, New Drive on Removals – Home Secretary on 24 February 2004		
716.	A UKBA investigation into the circumstances surrounding the Guardian newspaper publishing a story that Iraqi national alleged being assaulted and abused after a failed removal on 15 October 2009		
717.	A UKBA investigation into the circumstances surrounding the Guardian Newspaper publishing a story that Iraqi nationals alleged being assaulted and abused after a failed removal on 15 October 2009		
718.	A UKBA investigation into the circumstances surrounding Operation Rangat 2 on 16 June 2010		
719.	UKBA investigation into the Iraqi Charter Operation on 06 September 2010		
720.	A UKBA investigation into the circumstances surrounding an allegation from Ms Kxxx Oxxx the girlfriend of Mr Axx Axx Txxx via Ms Axxx Oxxx from Gloucestershire Action for Refugees and Asylum Seekers (GARAS) that Mr Txxxx		

was assaulted by G4S Escorts on 06 September 2010 on arrival at Baghdad International Airport

GLOSSARY

AAH – Asaib Ahl al-Haq

AQI – Al-Qaeda in Iraq

AVRIM – Assisted Voluntary Return Irregular Migrants Programme

AVRFC – Assisted Voluntary Returns for Families and Children

BIAP – Baghdad International Airport

BMD – Bureau of Migration and Displacement

CIA – Central Intelligence Agency

COIS – Country of Origin Information Service

CSID – Civil Status ID

CSIS – Center for Strategic and International Studies

CSOs – Civil Society Organisations

EDPs – externally displaced persons

EGIs –UNHCR Eligibility Guidelines

FCO – Foreign and Commonwealth Office

GoI – Government of Iraq

GPI – Global Peace Index

HRW – Human Rights Watch

IAU – UN Agency Information Unit

IBC – Iraq Body Count

ICRC – International Committee of the Red Cross

IEDs – improvised explosive device

IDMC – Internal Displacement Monitoring Centre

IMF – International Monetary Fund

IDPs – Internally displaced persons

IED – improvised explosive device

IIP – Iraqi Islamic Party

IGC – Intergovernmental Consultations on Migration, Asylum and Refugees

INC – Iraqi Nationality Certificate

IOM – International Organisation for Migration

IRIN – Integrated Regional Information Networks

ISF –Iraqi security forces

JSCRA – Jane's Sentinel Country Risk Assessment

KDP – Kurdistan Democratic Party

KH – Kata'ib Hizbullah

KRG – Kurdish Regional Government

KRI – Kurdistan region of Iraq

LGBTI – Lesbian, Gay, Bisexual, Transgender and Intersex

MDO – Migration Delivery Officer

MoDM – Ministry of Displacement and Migration

MNF-I – The Multi-National Force – Iraq

NCCI – NGO Coordination Committee for Iraq

NGO – Non government organisation

OCHA – Office for the Coordination of Humanitarian Affairs

OGN – Operational guidance notes

OHCHR – Office of the United Nations High Commissioner for Human Rights

PAC – UNHCR Protection Assistance Centres

PAO – Public Aid Organisation

PARCs – rotection Assistance Reintegration Centers

PDS – Public Distribution System card (food ration card)

PSU – UKBA's Professional Standards Unit

PUK – Patriotic Union of Kurdistan

RICC – UNHCR Return Integration & Community Centres

RMJ – Refugee and Migrant Justice

SIGIR – Special Inspector General for Iraq Reconstruction

SoI – The Sons of Iraq

UNAMI – United Nations Assistance Mission for Iraq

USDD – US State Department

UNSC – UN Security Council

VARRP – Voluntary Assisted Return and Integration Programme

VBIED – multiple vehicle-borne improvised explosive device