

Update of UNHCR Aide-Memoire of 2006¹ Protection Considerations for Palestinian refugees in Iraq²

Introduction

Palestinian refugees have been residing in Iraq since 1948, when the Arab-Israeli conflict caused large scale displacement throughout the region. That movement was followed by another group who fled the Occupied Territories as a result of the 1967 Arab-Israeli war and later by a third group who fled from the Gulf countries in the aftermath of the 1991 Gulf war.

The Palestinians living in Iraq were never recognized formally as refugees by the former Iraqi government. However, they were protected by the Iraqi authorities based on key resolutions of the League of Arab States and by the 1965 Casablanca Protocol.³ They enjoyed a relatively high standard of treatment during that period and were granted residence permits, benefited from the right to work, had access to social services and were provided with government-owned housing or fixed, subsidized rent in privately-owned dwellings. Iraq could thus be considered as the habitual place of residence of these Palestinians.⁴

Situation following the 2003 invasion

Persecution of members of the Palestinian community in Iraq began almost immediately after the fall of the former regime in April 2003. Palestinians were subject to harassment, targeted attacks, kidnapping, abduction, torture and extra-judicial killings.⁵ Verbal and physical abuse became commonplace, as many Iraqis sought revenge for the perceived preferential treatment the Palestinian community received under Saddam Hussein's

¹ UN High Commissioner for Refugees, *Aide-Mémoire: Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country*, December 2006, <http://www.unhcr.org/refworld/docid/45b0fc2e2.html>.

² This paper should be read in conjunction with the 2012 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Iraq. See: UN High Commissioner for Refugees, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq*, 31 May 2012, HCR/EG/IRQ/12/03, <http://www.unhcr.org/refworld/docid/4fc77d522.html>.

³ League of Arab States, *Protocol for the Treatment of Palestinians in Arab States ("Casablanca Protocol")*, 11 September 1965, <http://www.unhcr.org/refworld/docid/460a2b252.html>.

⁴ Palestinian refugees in Iraq, being outside of UNRWA's area of operation, fall within UNHCR's competence by virtue of paragraph 2 of Art.1D of the 1951 Convention relating to the Status of Refugees. UN High Commissioner for Refugees, *Revised Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees*, October 2009, <http://www.unhcr.org/refworld/docid/4add77d42.html>.

⁵ Post-2003 treatment of Palestinians in Iraq is documented in numerous reports. See e.g.: Human Rights Watch, *Nowhere to Flee: The Perilous Situation of Palestinians in Iraq*, 10 September 2006, E1804, <http://www.unhcr.org/refworld/docid/4517ca7e4.html>; Amnesty International, *Iraq: human rights abuses against Palestinian refugees*, 1 October 2007, MDE 14/030/2007, available at: <http://www.unhcr.org/refworld/docid/47009e3b2.html>.

regime. Hundreds of Palestinian families were forcibly evicted from government and privately owned housing, by groups of armed Shi'a militia as well as landlords who had received minimal rent from the government.⁶ Palestinians were also targeted by Al-Qaeda in Iraq (AQI) militia, some of which sought to force members of the Palestinian community to join them. Large numbers of Palestinians were dismissed from their employment, and the widespread violence in the aftermath of the invasion caused the exodus of hundreds of families.⁷

Following the bombing of the Samara shrine in February 2006, which prompted an eruption of inter-ethnic violence and sectarian killings, the Palestinian community again became the target of attacks.⁸ Incidents included targeted killings and kidnappings, as well as mortar attacks in Palestinian neighbourhoods. Al Baladiyat, the main Palestinian residential area in Baghdad, was targeted on a number of occasions, including through a mortar attack on 19 October 2006, which left 4 Palestinians dead.⁹ On 13 December 2006 eight mortar bombs fell on Al Baladiyat leaving more than 20 Palestinians dead and at least 20 injured.

Current Status and Protection Needs of Palestinians in Iraq

The pre-war population of Palestinians country-wide in Iraq was believed to be more than 34,000.¹⁰ In Baghdad, UNHCR registered some 23,000 Palestinians in 2003, before the exercise was interrupted in August 2003 with the staff evacuation following the bombing of the UN compound in the Canal Hotel in Baghdad.

However, as described above, following the violence in 2006 and 2007, thousands of Palestinians fled Iraq, often using forged Iraqi documents to exit the country. At the end

⁶ For example, many families had lived rent-free in apartments for which the government paid owners as little as \$10 per annum. Human Rights Watch, *Nowhere to Flee: The Perilous Situation of Palestinians in Iraq*, 10 September 2006, E1804, <http://www.unhcr.org/refworld/docid/4517ca7e4.html>.

⁷ Many fled to camps on the Iraqi-Jordanian border, including Ruwaisid refugee camp on the Jordanian side of the border. For an account of this period, see Human Rights Watch (cited above); see also, UN High Commissioner for Refugees, *Aide-Mémoire: Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country*, December 2006, <http://www.unhcr.org/refworld/docid/45b0fc2e2.html>.

⁸ Between November 2006 and January 2007 UNHCR received reports of 37 Palestinians killed in targeted attacks. UN High Commissioner for Refugees, *UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-seekers*, August 2007, <http://www.unhcr.org/refworld/docid/46deb05557.html>.

⁹ UN High Commissioner for Refugees, *Aide-Mémoire: Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country*, December 2006, <http://www.unhcr.org/refworld/docid/45b0fc2e2.html>.

¹⁰ This included approx. 4000 Palestinians in Mosul, and some 700 in Basra. See Human Rights Watch, *Nowhere to Flee: The Perilous Situation of Palestinians in Iraq*, 10 September 2006, E1804, <http://www.unhcr.org/refworld/docid/4517ca7e4.html>, p. 8; UN High Commissioner for Refugees, *Palestinians leave desert camp for Baghdad*, 26 May 2004, <http://www.unhcr.org/40b4a6c04.html>.

of 2006, the population of Al Baladiyat had decreased from 8,000 to 4,000.¹¹ In 2008, an update of the registration of Palestinians was conducted throughout the country by the Permanent Committee (PC) of the Ministry of Interior, with technical support from UNHCR.¹² Some 10,500 individuals were registered during this exercise.¹³ The vast majority of Palestinians are currently residing in Al Baladiyat in Baghdad.¹⁴ A smaller population, approximately 1,000 persons, are living in Ninewa, and a few individuals in the Kurdistan Region (Suleymaniya).¹⁵

Since 2009, despite the ongoing security and operational constraints in Baghdad, UNHCR has been able to ensure a regular monitoring presence amongst the Palestinian community in Baghdad. National protection staff undertake twice-weekly visits to the Haifa Club (a recreational club located in Al Baladiyat), as well as home visits, and monitor the implementation of projects carried out by UNHCR's partner Islamic Relief Worldwide (IRW).¹⁶ Through individual, family and group interviews, as well as meetings with community representatives in Baghdad, detailed information on the present situation of the Palestinian refugees has been obtained.

Despite the stabilisation in the security situation since 2008, occasional targeted attacks still affect Palestinian refugees. Significantly, however, the experience of years of threats and insecurity has created a climate of fear amongst the community. As the political and security situation remains extremely unstable, there is concern that an escalation in sectarian tensions could provoke a resumption of violence towards the Palestinian community. It should also be noted that in addition to the specific incidents, low level harassment and persistent discrimination are continually reported by the community, which in many cases has a serious impact on their ability to live a normal life.¹⁷

The general decrease in violence in comparison to 2006-2007, must be examined in the context of the particular situation of Palestinians, a marginalized minority group whose status as a community has declined since 2003 thus exposing them to continuing high levels of security threats.

¹¹ Ibid. For a comprehensive list of incidents from 2006-2007 targeting Palestinians in Baghdad, see UN High Commissioner for Refugees, *UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-seekers*, August 2007, <http://www.unhcr.org/refworld/docid/46deb05557.html>, Annex IX.

¹² See details in 'legal status' below.

¹³ There are no updated statistics available. UNHCR statistics, as at end October 2010, recorded 10,502 persons / 2,997 families in Baghdad.

¹⁴ A small number of Palestinians reside in other areas of Baghdad including Zafaranyah, Karrada and Doura. UNHCR statistics as at end of October 2010 record 10,502 persons / 2,997 families in Baghdad.

¹⁵ According to UNHCR statistics (end March 2012) – 930 individuals / 264 families are registered with UNHCR in the North, 928 / 262 of whom are in Mosul (Ninewa).

¹⁶ IRW currently has three main projects in Al Baladiyat: food assistance to vulnerable families; financial support to orphans; medical assistance, through Palestinian Red Crescent Society (PRCS).

¹⁷ Information available to UNHCR, through continuous protection monitoring.

Further details regarding the situation of Palestinians in Iraq are set out below, with a focus on legal status, living conditions, access to basic rights and services, as well as security. The report focuses mainly on the situation in Baghdad, where UNHCR has a regular presence but also highlights the situation in the Kurdistan Region. It emphasizes that the situation of Palestinians should be assessed in the context of their position as a marginalized group whose status has declined significantly since 2003, and for whom adequate state protection is often lacking.

Legal status

Under the regime of Saddam Hussein, although the Palestinian refugees received favourable treatment by the government, they were never formally granted refugee status and their legal status in Iraq was never fully defined. Palestinians were granted residency permits with a five year validity and travel documents, but, as is the case with most Arab countries hosting Palestinian refugees and in accordance with the Casablanca Protocol,¹⁸ they were not granted Iraqi citizenship and consequently did not qualify for Iraqi passports. Pursuant to the Decree 202 of 2001,¹⁹ Palestinians who had residency in Iraq were to be ‘treated as Iraqi citizens in rights and duties’, with the exception of the right to obtain Iraqi nationality. Palestinians nevertheless enjoyed an otherwise broad range of rights in Iraq, including the rights to work, health care and education.

Following the fall of the regime, the abovementioned legislation remained in force. Despite the legal rights outlined above, however, in practice Palestinians were often prevented from accessing or enjoying these rights. For example, it has been reported that Palestinians have had their employment terminated because they did not hold Iraqi nationality.

In mid-2008, the Ministry of Interior (MoI), with technical support from UNHCR, commenced the registration of all Palestinians in Iraq. This was completed in 2009 and all registered Palestinians were issued with ID cards by the MoI. All registered Palestinians have now been issued red identity cards.²⁰ The PC-MoI provides residence permit with five year validity to Palestinians on presentation of their old residence cards issued by the former regime and a supporting letter from the Ministry of Displacement and Migration (MoDM).

The issuance of the new ID cards has been a positive development, and has greatly enhanced freedom of movement for the Palestinian community. During 2010 and early 2011 UNHCR received a number of reports from Palestinians that the identity cards were not recognized by some security personnel at checkpoints, with some Palestinians reporting that they had been detained for several hours whilst clarification was sought

¹⁸ League of Arab States, *Protocol for the Treatment of Palestinians in Arab States* ("Casablanca Protocol"), 11 September 1965, <http://www.unhcr.org/refworld/docid/460a2b252.html>.

¹⁹ Text of the Decree available on file.

²⁰ Initially the 1948 arrivals / descendants were given a red card and the 1967 arrivals / descendants a yellow card; however, this has now been changed and all have red cards.

with the MoI. During this period, UNHCR also received occasional reports of verbal harassment, as well as some allegations of physical abuse. In comparison with the general Iraqi population, Palestinians may be subject to increased security checks, both at checkpoints and in their residences (refer to *Security Situation* section below).

Rights and entitlements

There have been no significant changes in the rights and entitlements of the Palestinian refugees since the period of the former regime. With the identity cards issued by the MoI, Palestinians have access to public schools and health facilities, the public food distribution system (PDS) and are able to rent property. Palestinians in principle have access to public as well as private sector employment. In practice, however, as detailed below, the shortage of jobs in Iraq has adversely affected the Palestinian community, to an even greater extent than the rest of the Iraqi population.

Palestinian refugees have the right to obtain a travel document, pursuant to Law No. 26 of 1961 (still in force).²¹ Travel documents are issued by the Residence Directorate and are valid for one year.²² The process of obtaining a travel document takes around one month and requires security clearance from the competent authorities. The travel document allows Palestinians to leave and re-enter Iraq; however, an exit visa (from the Residency Directorate) is also required in order to leave Iraq and an entry visa is required to re-enter the country. For further details see below section on *Legal Obstacles to return*.

Security situation:

General situation and Armed Groups

In comparison with the period following the US invasion in 2003, and 2006/7, when the Palestinian community was subject to widespread violence, it is generally acknowledged that the security situation for Palestinian refugees both in Baghdad and in Mosul has improved. Palestinians are no longer subject to the type of targeted attacks which characterized these earlier periods, and the level of violence towards the community has, on the whole, greatly diminished. Many Palestinians who experienced threats, verbal and physical harassment in the 2003 – 2007 period continue to live in their previous place of residence, and are endeavouring to rebuild their lives.

However, virtually all Palestinians who have been interviewed by UNHCR continue to express serious fears and concerns for their security, particularly given their previous experiences.

The general situation particularly in Baghdad remains extremely volatile, even more so in the area where most of the Palestinian community is residing. The area, Al Baladiyat, is

²¹ Law 26, 1961 – Travel Documents for Palestinians; and General Passport Law No.55/1959.

²² According to the ‘Diplomatic Guide’, obtained from Ministry of Foreign Affairs (MoFA) / Inspector General Office.

located close to Sadr City, the Shi'ite stronghold formerly dominated by the Mahdi Army militia. Sadr City and its surrounding areas are frequently targeted by Sunni insurgents / Al-Qaeda in Iraq (AQI). The most commonly used methods include improvised explosive devices (IEDs) / car bombs and sticky bombs. The level of violence across much of the city remains extremely high, with civilians continuing to represent the largest number of casualties. Consequently, many residents express legitimate security concerns. On-going political instability, and a number of large-scale and coordinated attacks across Baghdad, particularly since the departure of the US forces at the end of 2011 and in early 2012, have raised fears of a rise in sectarian violence and a renewed general deterioration of the security situation.

UNHCR continues to receive general reports from the Palestinian refugee community of low level harassment and verbal abuse from neighbouring communities. A small number of refugees have reported incidents of physical abuse, targeted attacks and threats of kidnap and extortion from armed groups. Incidents reported directly to UNHCR include threats towards individuals who work in the International Zone, or who are perceived to be associated with the United States of America.²³

The psychological impact of the earlier violence and the continuing instability on the whole Palestinian community should not be underestimated. Thus, even families who may have lived without having been affected by a serious incident for the past two - three years remain in constant fear of future attacks, and many Palestinians, particularly women, are fearful to leave their homes.²⁴ UNHCR has spoken with several individuals whose close relatives were tortured and killed in the 2003-7 period, as well as families whose children were kidnapped for ransom during this time. In some cases, the families are aware that the perpetrators, or persons associated with them, continue to operate in nearby areas.

In assessing protection needs, it is therefore important to acknowledge the impact on the group of the shared experience of severe past persecution, violence and repeated displacement. For Palestinians who fled Baghdad during the period of sectarian violence, this experience has intensified their fear of return to Baghdad. Even with what appears to be a decrease of violence in Baghdad, many remain extremely fearful of returning to their former neighbourhoods due to the high likelihood that they would encounter those who forced them to flee.²⁵

Relations with Security Forces

²³ Including persons who are working for private US companies. See also UN High Commissioner for Refugees, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq*, 31 May 2012, HCR/EG/IRQ/12/03, <http://www.unhcr.org/refworld/docid/4fc77d522.html>, "Individuals Affiliated with the USF-I, Foreign Government, NGOs, or International Companies", p 16.

²⁴ See section below.

²⁵ Based on accounts shared with UNHCR in the context of protection monitoring in Baghdad.

Overall, the relations between the Iraqi authorities and the Palestinian community have improved during the past few years. The Iraqi National Police patrols regularly around the Al Baladiyat compound and, on the whole, refugees report²⁶ that they are able to approach the police for assistance. Many refugees claim however that the assistance and response received is dependent on the personal attitude of the particular police officer, with some displaying open hostility towards the community. In 2011 and 2012, reports were received of families claiming to be unable to obtain death certificates, e.g. for reason of militia dominating the Medical Legal Institution (MLI).

Although incidents of house-to-house searches and arbitrary arrests are reduced in number in comparison with previous years, they still occur, particularly following security incidents in nearby areas. In such cases, police and security forces continue to target the community, conducting house raids and arresting individuals. Since mid-2011 a number of arrests of Palestinian refugees have taken place in Al Baladiyat. Some of the arrests were allegedly targeted at specific individuals, whilst others were reported to be random, following the alleged discovery of explosive materials.²⁷

Reports have been received of lengthy detentions without charge, as well as of physical and verbal abuse in detention. Security forces have the right to question persons whom they reasonably suspect of involvement in security incidents, yet it is essential that due process is respected. Whilst evidence remains largely anecdotal, reports suggest that persons ‘suspected’²⁸ or detained by security forces, even where charges are not brought or the person is exonerated, are often subject to repeated searches and interrogation following release. For example, reports have been received that many Palestinians who were subject to arbitrary arrest and detention in the past (particularly during the 2006-8 period), have frequently been targeted and re-arrested by the security forces, following their release. Consequently, many individuals and their families are known to have fled Iraq after having been released from detention and after subsequent threats or interrogations by security personnel.²⁹

²⁶ Information available to UNHCR.

²⁷ UNHCR is aware of the arrests of at least 20 Palestinians during the period August / September 2011 to end March 2012. Several were released without charge after investigation, but others remain in custody. Cases are being followed up where possible.

²⁸ This could take the form of people caught in house searches or questioned during general security checks.

²⁹ In one case reported to UNHCR, a Palestinian man and his son were arrested by security forces following the alleged discovery of weapons in a nearby apartment belonging to a relative. They were detained for a few days, interrogated, but released without charge. Following their release, they were again approached by Iraqi Security Forces (ISF) and repeatedly questioned. In addition, they also received threats from AQI and were put under pressure to join the group. As a consequence, the family fled to Syria. In a similar case reported to UNHCR, a Palestinian man who had been detained, questioned and released without charge, fled to Syria with his sisters shortly after having been released. It was reported that his departure abroad was triggered by post-detention harassment from the ISF, including the ISF’s insistence on house searches, allegedly without reasonable justification.

The impact on the Palestinian community of such arrests and accompanying harassment has been significant, and refugees are very concerned for their security and future, given the apparently arbitrary nature of some of the searches / arrests.

Living conditions

As highlighted above, under the previous regime, Palestinians enjoyed a high standard of living, with most having enjoyed rent-free or low rent accommodation, subsidized by the Government. Following the fall of the regime, many hundreds of families were evicted by landlords and militia, leaving the community concentrated mainly in the Al Baladiyat compound, where they still live today. The Al Baladiyat buildings belong to the Government and are free of charge. For families who are unable to receive free accommodation in these buildings, UNHCR, in coordination with MoDM, provides rental subsidies. Two hundred twenty (220) of the most vulnerable Palestinian families receive such subsidies at present.³⁰

UNHCR protection staff conducts regular house to house monitoring of the refugees, both those who are supported under the subsidies scheme and other families. No cases of arbitrary evictions have been reported during 2010, 2011 and the first months of 2012, and in general the Palestinians interviewed at the Haifa Club report good relations with their landlords.

Present living conditions in Baghdad are on the whole comparable with the general population in Iraq. Houses and apartments are often overcrowded, with large families living in small premises. Basic services remain poor, including the supply of water and electricity, but in this respect there have been no reports of discrimination towards the Palestinians. Palestinians have food ration cards, and are able to receive food assistance from the Public Distribution System (PDS).³¹ The situation is similar in Mosul – many of the Palestinian refugees are residing, free of charge, in a designated apartment complex, built jointly by the former government and UNRWA. Apartments are reportedly overcrowded, frequently accommodating several families in a single apartment.

Employment

Prior to the fall of the previous regime, the Palestinian community in Baghdad was generally considered as highly educated and unemployment levels were low. Many Palestinians worked in the public sector as teachers, lecturers and health professionals, or

³⁰ The programme was initiated to assist persons who left their homes after 2003 and lived in tents on the Haifa Club premises; groups eligible for the provision of assistance included elderly persons, widows, or children who had lost one or both parents.

³¹ However, it should be noted that government food assistance is limited and as for the general population, rations are often delayed or incomplete. To supplement the assistance, UNHCR, through implementing partner Islamic Relief Worldwide, provides food assistance to 200 vulnerable Palestinian families in Baghdad.

in private businesses and trade. Since 2003, many Palestinians have been dismissed from their jobs both in the public and the private sector, and faced widespread discrimination in terms of access to the job market.

Whilst at present unemployment rates are high for all persons in Iraq, anecdotal evidence from interviews suggests that rates are higher for the Palestinian community in both Baghdad and in Mosul than for the general population. Palestinians continue to face discrimination from prospective employers, particularly in the public sector. Refugees monitored by UNHCR frequently claim that they have been unable to secure employment because they are Palestinians.

In addition, it should be noted that many Palestinians in Baghdad are extremely reluctant to leave their community for security reasons, and feel compelled to remain within the Al Baladiyat environs, which necessarily limits their employment opportunities yet further.

Education

Palestinian children have access to education on a par with Iraqi citizens, and the majority of children are attending school. No incidents have been reported of overt denial of education to Palestinian children since 2010; however, occasional individual reports continue to be received of harassment or negative attitudes and stereotyping by teachers.

In addition, it is noted that many Palestinian families in Baghdad continue to express security concerns for their children, based on past experiences. During the period of sectarian violence, several children were kidnapped for ransom, and many were subject to serious threats at school. Although the situation has improved in this regard, the fear remains, particularly given the prevailing instability and security concerns.

Health care

Palestinian refugees have access to public health facilities in Iraq, and in general they are able to receive health care as any Iraqi citizen. Some individual complaints of discrimination have been reported to UNHCR by Palestinian refugees in Baghdad, based on the individual attitude of medical staff, but no serious incidents have been reported. The economic vulnerability of many refugees, however, means that most are unable to afford expensive drugs / medical treatment. UNHCR, through an implementing partner, provides assistance to support vulnerable members of the community to access medical care.

Access to justice / legal system

During the period of sectarian violence, access to justice was extremely difficult. No such issues have been raised in recent years; however, judicial institutions remain weak and Palestinians, like all Iraqi citizens, face challenges when seeking legal remedies.

The situation of Palestinian women

Palestinian women continue to report security concerns in Baghdad. Many women have confirmed to UNHCR protection staff that they rarely leave the home, due to persistent fears based on their experiences in 2006-7.

In 2009 UNHCR received reports that the situation for Palestinian women had deteriorated, due in part to the proximity of Al Baladiyat to Shi-ite dominated neighbourhoods and the rise in conservatism in these areas. Palestinian women were perceived as not complying with religious decrees from radical insurgent Shi-ite Muslim groups like the Sadr Forces / Mahdi Army. Women were reportedly targeted for not conforming to conservative dress codes, veiling, and gender segregation standards. Palestinian women in Baghdad have reported that they have been harassed in the market and in the streets.

Most women interviewed by UNHCR protection staff in Baghdad report that, although they have not been targeted or threatened directly, they severely restrict their movements, and spend most of their time indoors. The majority of women avoid leaving the house unless the purpose is essential, and many report that they rely on their husbands to visit shops outside of their immediate vicinity. The ability of Palestinian women to lead a 'normal' life in Baghdad is, in this sense, questionable.

UNHCR has received reports of targeted threats to Palestinian women who are more 'visible' in the community. In one case in 2011, a woman who worked as a mortician in the community received threats from both men and women, and reportedly escaped an attempted abduction.³²

Increased risks for returnees due to their specific circumstances

Returnees amongst the Palestinian community, who are often victims of severe past persecution, are likely to be even more vulnerable than others. Given the small size of the Palestinian community in Baghdad, Palestinian returnees are highly visible. Those who have returned or may return in the future are likely to remain or become internally displaced upon return. Most lost their homes when they were evicted from rented apartments previously subsidized by the former regime and no longer have access to them. As internally displaced persons, Palestinian returnees would again be likely to be exposed to violence and threats by Shi-ite Muslim and other armed groups, without the protection of their own community.

Palestinians returning to Baghdad after years in exile are likely to be perceived as outsiders and foreigners there, resulting in a higher risk of being targeted in comparison to those Palestinians who remained in Baghdad. Although it is likely that returnees would receive some assistance from the Palestinian community in Baghdad, it is important to recognize that the Palestinian community has been severely weakened and marginalized

³² Case reported to UNHCR. Details available to UNHCR.

and would be unable to provide adequate community protection and support for returnees in the current security climate in Iraq.³³ Palestinian returnees would probably find themselves in an even less favourable scenario in return locations elsewhere in Southern or Central Iraq, where there are no sizeable Palestinian communities.

Legal Obstacles to Return

Article 17 and 18 of the Iraqi Political Refugee Law describes the penalty for refugees exiting Iraq illegally, without prior consent of the Minister of Interior. Article 17 stipulates that refugees cannot leave Iraq without prior approval from the MoI, whilst Article 18 imposes punishment through confiscation by the authorities of all movable and immovable property. In order for asylum-seekers and refugees to be able to return to Iraq, therefore, they need the approval of the MOI at the time of departure and are required to provide the reason for their travel outside Iraq and the duration of their sojourn abroad.

Moreover, Article 10 (1/A) of the Passports Law No. 32 of 1999 imposes on any person who exits or attempts to exit, enters or attempts to enter, Iraq without a valid passport or travel document, a sentence of 5 to 15 years imprisonment, and confiscation of movable and immovable property. Article 10 (1/C) of the same law imposes imprisonment on anyone who exits or enters the country through unofficial border points. There is, however, no evidence to suggest that Palestinians have been disproportionately affected by these regulations over and above Iraqi citizens.

In addition, Article 298 of the Iraqi Penal Law imposes a punishment of up to 15 years for anyone convicted of using forged official documents. Staff of the Iraqi Intelligence, Passport and Information Office at Baghdad International Airport conduct investigations and check the documents of returnees. Further verification is then conducted making use of the MoI's Central Information Database. Returnees who are found in possession of forged Iraqi documents will be detained and referred to the relevant authorities for legal processing. Palestinians holding a travel document issued either in Iraq or by the country's embassies abroad would be able to return legally after obtaining an entry visa to Iraq.³⁴ However, as many Palestinians had no option but to resort to using forged Iraqi documents to leave Iraq, since borders of the neighbouring countries were sealed for the entry of Palestinians fleeing the country, they may be at risk of punishment upon return. In terms of legal support, UNHCR / implementing partners generally have access to detainees except in cases relating to alleged terrorist offences (especially Terrorism Law Art. 4).

³³ Observation on the basis of reports made by Palestinian families in the context of protection monitoring activities in Baghdad.

³⁴ The "Diplomatic Guidelines", issued by MoI [last update in 2011] and distributed to all Iraqi missions abroad, stipulate that any Palestinian residing abroad and wishing to return to Iraq obtain from the Palestinian Embassy in Baghdad a letter confirming that (s)he does not possess a passport issued by the Palestinian National Authority. It is only after such confirmation is received that the Iraqi Embassies can be authorized by MoFA to issue travel documents or return visa.

Internal Flight or Relocation Alternative (IFA/IRA)³⁵

UNHCR considers that an internal flight or relocation alternative in the Kurdistan Region³⁶ is not likely to be relevant for the large majority of Palestinians, due to the ability of agents of persecution to perpetrate acts of violence with impunity in the northern governorates, the ongoing violence and human rights violations throughout the country, and the risks associated with travel. If however it is considered relevant, it is unlikely to offer a reasonable alternative, given the absence of family links and community support and the hardship faced in ensuring even basic survival in areas of relocation.

Palestinians outside their community in Central and Southern Iraq may risk renewed violence. They have been targeted by armed groups, which have been active in most parts of the country.

Southern Iraq, dominated by Shi'ite Iraqis, is not likely to offer a reasonable alternative for Palestinians who are mostly Sunni. They do not belong to the majority sect in the South and the national authorities do not yet have the capacity, or in some cases the willingness, to enforce the law and protect Palestinians. Furthermore, family and community ties are not available for Palestinian refugees in Southern Iraq and other areas in Central Iraq.

Consequently, upon relocation within Southern and Central Iraq, they would be at risk of further marginalization, discrimination and violence.

Whether an internal flight alternative may be available for Palestinians in Iraq within the Kurdistan Region must be examined carefully on a case-by-case basis. The examination should take into account factors such as the background, profile and circumstances of the individual concerned; the existence of legal and physical barriers to accessing the area of relocation; possibilities of new risks of harm in the area of relocation; and whether undue hardship is likely to be faced by living in the area of relocation. In light of the above, UNHCR recommends strong caution in the application of an internal flight or relocation alternative.³⁷

³⁵ UN High Commissioner for Refugees, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq*, 31 May 2012, HCR/EG/IRQ/12/03, <http://www.unhcr.org/refworld/docid/4fc77d522.html>, see IV. C, “Internal Flight or Relocation Alternative”.

³⁶ Particular attention should be given to the applicant’s ethnic and political profile and the stringent controls on the presence of persons not originating from the Kurdistan Region. Palestinian refugees would face even stricter limitations with regard to access to the Kurdistan Region. They may not be allowed to relocate to or take up legal residence in the three Northern Governorates for security, political or demographic reasons.

³⁷ See also: UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to*

UNHCR considers that an IFA/IRA in the Kurdistan Region is generally not relevant, including for Palestinians, due to the accessibility issues. In addition, IFA/IRA in the Kurdistan Region is not reasonable for many Palestinians due to difficulties in accessing livelihood opportunities, affordable housing, education, and food through the Public Distribution System.

UNHCR generally considers that an IFA/IRA will, in all likelihood, not be a reasonable option for Palestinians elsewhere in southern and central Iraq. This is so even in those cases where an IFA/IRA could be relevant because the agents of persecution are non-state agents whose reach does not extend to a proposed IFA/IRA area in southern and central Iraq, because of the risks of further marginalization and violence.

Summary and Conclusion:

Palestinian refugees in Iraq report that in general, attitudes towards them have somewhat improved, and that the security and human rights situation has stabilized to some extent, in particular since the 2003 – 2007 period. However, the situation remains extremely fragile. Many Palestinians are still living in proximity to the members of armed groups and community members who were responsible for violence, threats and persecution that affected their community deeply. Given their past experiences, most Palestinians express serious fears for their future.

As indicated above, discrimination is still prevalent in many sectors, and consideration must be given to the general inability of Palestinians to live a normal life (for example in terms of employment, education, health care) in comparison with Iraqi citizens.

Depending on the individual circumstances of the claim, UNHCR considers that Palestinian refugees whose former habitual residence was Iraq are likely to be in need of international refugee protection.

UNHCR,
July 2012