



Home Office

# OPERATIONAL GUIDANCE NOTE

## Iraq

Contents	
<b>1. Introduction</b>	<b>1.1</b>
<b>2. Country assessment</b>	<b>2.1</b>
<a href="#">Actors of protection</a>	<b>2.2</b>
<a href="#">Internal relocation</a>	<b>2.3</b>
<a href="#">Country guidance caselaw</a>	<b>2.4</b>
<b>3. Main categories of claims</b>	<b>3.1</b>
<a href="#">General security situation</a>	<b>3.9</b>
<a href="#">Individuals associated (or perceived to be associated) with the Iraqi government or former multi-national forces</a>	<b>3.10</b>
<a href="#">Journalists</a>	<b>3.11</b>
<a href="#">Former Ba'ath party members</a>	<b>3.12</b>
<a href="#">Honour crimes</a>	<b>3.13</b>
<a href="#">Christians (including converts) and other minority religions</a>	<b>3.14</b>
<a href="#">Treatment of women</a>	<b>3.15</b>
<a href="#">Prison Conditions</a>	<b>3.16</b>
<b>4. <a href="#">Unaccompanied minors claiming in their own right</a></b>	<b>4.1</b>
<b>5. <a href="#">Medical treatment</a></b>	<b>5.1</b>
<b>6. Returns</b>	<b>6.1</b>

### 1. Introduction

- 1.1** This document provides Home Office caseworkers with guidance on the nature and handling of the most common types of claims received from nationals/residents of Iraq, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** Caseworkers must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant COI Service country of origin information and any other relevant information. COI Service information is published on Horizon and is available on the [Home Office website](#):
- 1.3** Claims should be considered on an individual basis, but taking full account of the

guidance contained in this document. Where a claim for asylum or Humanitarian Protection is being considered, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for Discretionary Leave in accordance with the published policy.

- 1.4** If, following consideration, a claim is to be refused, caseworkers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

## **2. Country assessment**

- 2.1** Caseworkers should refer to the relevant COIS country of origin information material. An overview of the human rights situation in certain countries can also be found in the [Foreign & Commonwealth Office \(FCO\) Annual Report on Human Rights and Democracy](#) which examines developments in countries where human rights issues are of greatest concern.

## **2.2 Actors of protection**

- 2.2.1** Caseworkers must refer to section 7 of the Asylum Instruction - [Considering the asylum claim and assessing credibility](#). To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence. Caseworkers must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

### **Central and Southern Iraq**

- 2.2.2** The Iraq Security Forces (ISF) consists of internal security forces administratively organised within the Ministry of Interior (MOI) and external security forces under the control of the Ministry of Defence (MOD). The MOI's responsibilities include domestic law enforcement and maintenance of order. Conventional military forces in the MOD are responsible for external defence but cooperate regularly in internal security missions with the MOI.<sup>1</sup>
- 2.2.3** Human rights violations committed by ISF personnel were rarely investigated, and perpetrators were seldom punished. For example, on 21 October 2012, the ISF injured four protesters demonstrating against poor government services and delayed reconstruction projects in al-Salam in Maysan Province. The protesters, who had closed a key highway between Dhi Qar and Maysan, became violent

---

<sup>1</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204362>

when security forces attempted to disperse the crowd, inciting Iraqi Army (IA) soldiers to fire above the crowd, wounding four protesters in the process. On 22 October, the Maysan Provincial Council questioned the governor and his deputies regarding the protest and accompanying IA response. The provincial council formed an investigative committee to examine the IA shootings, but there were no results at the end of 2012.<sup>2</sup>

- 2.2.4** There were continued accounts of torture and abuse throughout the country in many MOI police stations and MOD facilities, reportedly primarily during interrogation. The MOI did not release the number of officers punished during 2012, and there were no known court convictions for abuse. The government did not take widespread action to reform security forces to improve human rights protection.<sup>3</sup>
- 2.2.5** Problems persist with the police regarding sectarian divisions, corruption, ties to tribes, and unwillingness to serve outside the areas from which they were recruited. The army and federal police recruited nationwide and deployed soldiers and police to various areas, reducing the likelihood of corruption related to personal ties to tribes or militants.<sup>4</sup>
- 2.2.6** In some instances security forces failed to prevent or respond to societal violence. For example, security forces did not take sufficient measures to respond to threats of violence, some of which were carried out, against perceived lesbian, gay, bisexual, and transgender (LGBT) individuals despite the public posting of targeted individuals' names.<sup>5</sup>
- 2.2.7** According to the 2012 UNHCR Eligibility Guidelines, protection by national authorities, against non-state actors, was 'unlikely' to be available in most cases given their 'limited capacity to enforce law and order.' The source noted that the ISF, which as of December 2011 had around 930,000 members and 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. Political disunity has reportedly limited the effectiveness of the ISF.<sup>6</sup>
- 2.2.8** UNHCR reports in its Eligibility Guidelines that in recent years, there have been consistent reports of the ISF using repressive measures such as arbitrary arrests, incommunicado detention (including in "secret" facilities) and torture to silence political opponents, journalists, and protestors. There have also been reports of the ISF engaging in abuses of LGBTI individuals. The ISF have allegedly used excessive force against protestors, including live ammunition. Civilian deaths have occurred as a result of ISF or joint ISF/ United States Security Forces in Iraq (USF-I) military operations aimed at combating armed groups. Some sources claim that acts of violence committed by the ISF are achieved with impunity.<sup>7</sup>

---

<sup>2</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>3</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>4</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>5</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>6</sup> UN High Commissioner for Refugees (UNHCR), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers From Iraq, 31 May 2012, IV Eligibility for International Protection Availability of National Protection (page13) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>7</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers

According to the Center for Strategic and International Studies, efforts at police reform failed to avoid gross corruption and ties to power brokers before the collapse of the US-led advisory and training mission and have not been replaced with an effective system.<sup>8</sup>

- 2.2.9** IRIN reports that a 58km trench is being dug around Kirkuk City to protect it against violence, as regular bomb attacks and assassinations threaten the safety of its multi-ethnic residents. At the end of August 2013, Brigadier General Sarhad Qadir, a police chief in Kirkuk, told Rudaw news, an Erbil-based online newspaper that Kirkuk's police force could not cope: "The armed groups can carry out attacks anytime and anywhere they choose because they are unhindered."<sup>9</sup>
- 2.2.10** Judicial independence is guaranteed in the constitution. The Higher Judicial Council - headed by the chief judge of the Federal Supreme Court and composed of Iraq's 17 chief appellate judges and several judges from the Federal Court of Cassation - has administrative authority over the court system. In practice, however, judges have come under immense political and sectarian pressure and have been largely unable to pursue cases involving organized crime, corruption, and militia activity, even when presented with overwhelming evidence. Iraqi citizens often turn to local militias and religious groups to arbitrate rather than seeking redress with official law enforcement bodies that are seen as corrupt or ineffective.<sup>10</sup>
- 2.2.11** The judiciary, which remains understaffed, is reported to be prone to intimidation, infiltration, political interference and corruption. Judges often face death threats and attacks. Perpetrators of crimes and human rights violations are reportedly still not held accountable.<sup>11</sup>
- 2.2.12** UNAMI reports that courts remain under-resourced, contributing to long delays in processing cases beyond time-limits established by law and over-crowding in many prisons and detention centres. Courts also continue to rely in many cases solely on confessions obtained during pre-trial detention in reaching their verdicts and rarely investigate claims that confessions have been obtained under duress, despite such confessions being inadmissible under Iraqi law. Iraq continued to implement death sentences, despite weaknesses in the criminal justice system.<sup>12</sup> The UN High Commissioner for Human Rights, Navi Pillay, condemned the execution of 21 Iraqis in April 2013, stating the justice system is "too seriously flawed to warrant even a limited application of the death penalty, let alone dozens of executions at a time".<sup>13</sup>

---

for Iraq, 24 May 2012, III. Main Actors of Persecution and Violence b) State Actors, i Iraqi Security Forces (ISF) page 13) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>8</sup> Center for Strategic and International Studies, Request for comments: Violence in Iraq: The Growing Risk of Serious Civil Conflict, 9 September 2013

[http://csis.org/files/publication/120718\\_Iraq\\_US\\_Withdrawal\\_Search\\_SecStab.pdf](http://csis.org/files/publication/120718_Iraq_US_Withdrawal_Search_SecStab.pdf)

<sup>9</sup> IRIN, Analysis: Failing to address the root causes of violence in Iraq, 20 September 2013

<http://www.irinnews.org/report/98799/analysis-failing-to-address-the-root-causes-of-violence-in-iraq>

<sup>10</sup> Freedom House, Freedom in the world 2013: Uganda, 6 June 2013, <http://www.freedomhouse.org/report/freedom-world/2013/iraq>

<sup>11</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, IV Eligibility for International Protection Availability of National Protection (page 13) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>12</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 1. Introduction [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

<sup>13</sup> OHCHR - UN Office of the High Commissioner for Human Rights: Navi Pillay Condemns Rampant Use Of Death Penalty In Iraq, 19 April 2013

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13253&LangID=E>

## Kurdistan Region of Iraq

- 2.2.13** The two main Kurdish political parties, the KDP and PUK, maintained their own security apparatuses organised along military lines and dating from the struggle against the regime of Saddam Hussein and earlier. There are approximately 22 Peshmerga (Kurdish militia) brigades, all originally under the control of the two main Kurdish political parties. Under the constitution the KRG has the right to maintain regional guard brigades, supported financially by the central government but under KRG control. Accordingly, the KRG established a Ministry of Peshmerga Affairs. Four additional regional guard brigades were formed during 2012, bringing the number of regional guard brigades under the authority of the Ministry of Peshmerga Affairs to 12, although most units maintain allegiance to either the KDP or the PUK.<sup>14</sup>
- 2.2.14** The poorly defined administrative boundaries between the Kurdistan Region of Iraq and the rest of the country has resulted in continuing confusion about the jurisdiction of the security forces and the courts. The KDP maintained its own internal security unit, the Asayish, and its own intelligence service, the Parastin. The PUK maintained its own internal security unit, also known as the Asayish, and its own intelligence service, the Zanyari. The PUK and the KDP has taken some steps toward unifying their internal and external security organisations, but these organisations remain separate in practice and effectively controlled by political leaders through political party channels.<sup>15</sup>
- 2.2.15** Kurdish political parties, together with their armed forces and security/intelligence services, are accused by observers of using repressive measures - including harassment, physical assaults, arbitrary arrests, incommunicado detention, torture and ill-treatment in detention – against their political opponents, journalists, and members of ethnic/religious minorities in areas under their de facto or de jure control. Unlawful killings by the Kurdish Security Forces have been reported. Kurdish Security Forces have also reportedly used excessive force, including live ammunition, to disband popular protests.<sup>16</sup>
- 2.2.16** UNHCR notes that in the Kurdistan Region, judicial independence is said to be hampered by political interference.<sup>17</sup> UNAMI monitored 12 trials between July-December 2012 in the Kurdistan Region and remained concerned by the limited cooperation between Criminal Courts, Asayish and police, resulting in repeated delays in processing cases.<sup>18</sup>
- 2.2.17** Article 136(b) of the criminal procedure code, which previously gave ministers the opportunity to review and prevent the execution of arrest warrants issued by

---

<sup>14</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>15</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>16</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, III. Main Actors of Persecution and Violence b) State Actors, ii. Kurdish Security Forces <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>17</sup> UN High Commissioner for Refugees (UNHCR), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers From Iraq, 31 May 2012, 2012 IV Eligibility for International Protection Availability of National Protection (page 13) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>18</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 1. Introduction [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

judges presiding over criminal investigations of employees in their ministries, was repealed in June 2011. While this repeal was viewed as a dramatic improvement in fighting corruption when it was enacted, it has not led to significant changes in the number and pattern of arrests.<sup>19</sup>

**2.2.18** If the applicant's fear is of ill-treatment/persecution by the state authorities, or by agents acting on behalf of the state, then it is improbable that they can apply to those authorities for protection. If the ill-treatment/persecution is at the hands of non-state agents, then the provision of effective state protection is unlikely to be available in South and Central Iraq and is likely to be limited in the Kurdistan Region of Iraq. Each case must be considered on its individual facts and the assessment of whether effective protection is available should be considered in relation to the particular circumstances and profile of the claimant and the latest country of origin information.

### **2.3 Internal relocation.**

**2.3.1** Caseworkers must refer to the Asylum Instruction on [Internal Relocation](#) and in the case of a female applicant, the AI on [Gender Issues in the Asylum Claim](#), for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account. Caseworkers must refer to the Gender Issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

**2.3.2** Where a category of applicants fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.

**2.3.3** According to July 2011 FCO correspondence, Iraqi nationals are issued with four documents, a Iraqi Nationality Document, a ID card (Jensiyah), a Residence Card and a PDS (or ration card). Iraqi nationals are required to present these documents when seeking to relocate, or for any number of other issues, such as buying a car,

---

<sup>19</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dld=204362>

obtaining a passport, getting married etc.<sup>20</sup> In order to relocate from one part of Iraq to another, it is necessary to produce these documents. In addition, there is a requirement to obtain permission from the council or security office in the area someone intended to relocate to. It might also be necessary to provide proof of accommodation in a new area, for instance a rental agreement or house deeds to allow an individual to relocate furniture and belongings from one area to another.<sup>21</sup>

- 2.3.4** The FCO also notes that the Ministry of Displacement and Migration (MoDM), have processes in place to help IDPs and returnees obtain any missing documentation. In the Kurdistan Region, the MoDM equivalent, the Bureau of Displacement and Migration (BMD), also provides support with documentation issues.<sup>22</sup>
- 2.3.5** The FCO further states that it is not necessary for an individual to return to their registered place of residence to transfer documents to a new area of Iraq. It is possible for example to apply at a registration office in Baghdad, to have documents transferred from elsewhere in Iraq. However the MoDM have said that in practice this does not happen because it is now safe enough for someone to return to their registered place of residence to arrange to transfer documents. The processes and procedures were the same throughout governorates across south and central Iraq.<sup>23</sup>
- 2.3.6** The same source notes that there are no laws restricting the freedom of movement for Iraqi nationals, neither are there laws which restrict Iraqi nationals from changing their permanent place of residence. In addition, there are no laws relating specifically to the freedom of movement of Internally Displaced Persons (IDPs). These rights of freedom of movement are enshrined in the Iraqi Constitution. However while there are no laws governing freedom of movement, there are certain 'regulations' which are required to be met, for instance the production of certain types of Iraqi documents and, in the presentation of personal information to the local council or police.<sup>24</sup>
- 2.3.7** The government generally respected the constitutional provisions for freedom of movement in all parts of the country as well as the right to travel abroad and return freely. There were some limitations on refugees in the central provinces due to security concerns, as well as limitations on travel into and residence within the IKR, although internally displaced families were generally allowed to reside

---

<sup>20</sup> Letter from Foreign and Commonwealth Office, dated 27 July 2011 entitled Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011 (hard copy), COI Service Iraq Country Report August 2011 (para 30.02)

<sup>21</sup> Letter from Foreign and Commonwealth Office, dated 27 July 2011 entitled Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011 (hard copy), COI Service Iraq Country Report August 2011 (para 30.05)

<sup>22</sup> Letter from Foreign and Commonwealth Office, dated 27 July 2011 entitled Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011 (hard copy), COI Service Iraq Country Report August 2011 (para 30.06)

<sup>23</sup> Letter from Foreign and Commonwealth Office, dated 27 July 2011 entitled Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011 (hard copy), COI Service Iraq Country Report August 2011 (para 30.06)

<sup>24</sup> Letter from Foreign and Commonwealth Office, dated 27 July 2011 entitled Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011 (hard copy), COI Service Iraq Country Report August 2011 (para 30.02)

[www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/](http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/)

there.<sup>25</sup>

- 2.3.8** Security forces were permitted to restrict movement pursuant to a warrant, impose a curfew, cordon off and search an area, and take other necessary security and military measures in response to security threats and attacks. There were reports that security forces in the disputed areas, including Peshmerga and Iraqi Army forces, selectively enforced regulations requiring residency permits in order to remove persons from the areas under their control.<sup>26</sup>
- 2.3.9** The KRG restricted movement across the areas administered by the KRG due to what the KRG claimed were administrative and security procedures. Non-residents of the IKR were required to obtain permits that authorized limited stays in the IKR. Residency permits were generally renewable. Citizens not from the IKR who sought to move permanently to areas controlled by the KRG required a Kurdish sponsor. Citizens (of any ethnicity, including Kurds) crossing into the region from the South were obligated to enter at checkpoints and undergo personal and vehicle inspections. Officials prevented individuals from entering the region if they were deemed a security threat. Entry for male Arabs was reportedly more difficult than for others. The officer in charge of the checkpoint was empowered to decline entry into the region.<sup>27</sup>
- 2.3.10** To accommodate increasing numbers of summer and holiday visitors, the KRG security authorities worked out agreements with other provinces whereby tourist agencies submitted names of visitors in advance for preclearance. Visitors were required to show where they were lodging and how long they intended to stay.
- 2.3.11** Exit permits were required for citizens leaving the country, but the requirement was not routinely enforced.<sup>28</sup>
- 2.3.12** The UNHCR reported that 82,260 refugees and 218,800 IDPs returned to their places of origin in the country from January to December 2012. While the year's return figures were higher than the 67,080 refugee returns and 193,610 IDP returns recorded in 2011, the number of registered IDPs remained largely the same because there were new registrations of persons previously displaced. The UNHCR's end-of-year reporting noted an increasing number of returnees from Syria because of unrest. Many returnees received the Ministry of Migration and Displacement's (MOMD) four-million-Iraqi-dinar (approximately £2205) returnee grant. In June 2012 the MOMD announced an additional grant for IDPs choosing local integration in their place of displacement. Lack of funding, however, prevented the awarding of the grants by the end of 2012.<sup>29</sup>
- 2.3.13** While security gains and access to assistance attracted refugees to return, high unemployment, lack of shelter, and a continuing unstable political environment created significant challenges. Many displaced persons reported that they remained unwilling or unable to return to their homes because they feared their religious affiliation would make them an unsafe minority in neighbourhoods

---

<sup>25</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 2d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>26</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 2d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>27</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 2d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>28</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 2d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>29</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 2d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>



segregated along religious lines. Social and geographic integration of communities displaced before 2003 made it difficult to distinguish between those who remained displaced and those who chose to remain where they were. Most international organizations focused on the 1.1 million persons displaced since 2006.<sup>30</sup>

- 2.3.14** The US State Department report covering 2012 stated that the government engaged in efforts to promote the safe, voluntary return or local integration of IDPs. While IDP rights are addressed in the constitution and the 2008 national policy on displacement, they remained largely unaddressed in specific laws. The MOMD's comprehensive strategy recognized local integration as a legal option for IDPs. While local integration was incorporated into government efforts, the government also continued to encourage families to return to their original homes.<sup>31</sup>
- 2.3.15** The main physical barriers to internal movement across central and southern Iraq are the regular security checkpoints. However provided an individual had the necessary identity documents, there was usually no problem in passing these areas.<sup>32</sup>
- 2.3.16** In the May 2012 UNHCR Eligibility Guidelines, UNHCR said that they generally consider that IFA/IRA [internal flight alternative/internal relocation alternative] in the Kurdistan Region is not relevant for many Iraqis due to the accessibility issues. Depending on the person's profile, but also the checkpoint and the officer in charge, persons seeking to enter as tourists may be required to produce a sponsor. Arabs, Turkmen and Kurds from the disputed areas are usually requested to have a sponsor, while Kurds (not from the disputed areas) and Christians are able to enter without a sponsor. Persons seeking to stay more than 30 days should in principle obtain a residence card. Long-term stays always require a sponsor. UNHCR is not aware of any IDPs who have received the residence card. UNHCR is aware of individuals who have been refused entry into the Kurdistan Region. Arabs, Turkmen and certain profiles of Kurds will likely face extensive questioning and may be denied entry at the checkpoint, mostly due to security concerns. In particular, single Arab males, including minors, are likely either to be denied entry into the Kurdistan Region or to be allowed entry only after a lengthy administrative procedure and heavy interrogation. Checkpoints reportedly maintain "blacklists" of individuals banned from entering the Kurdistan Region, including those considered a security risk, but also those who have previously overstayed or did not renew their residence permits. In addition, UNHCR considers that IFA/IRA in the Kurdistan Region is not reasonable for many Iraqis due to difficulties in accessing livelihood opportunities, affordable housing, education, and food through the Public Distribution System. Persons fleeing persecution emanating from state or non-state actors from the Kurdistan Region will generally not be able to find protection in another part of the Kurdistan Region.<sup>33</sup>
- 2.4.17** In considering internal flight/movement within southern and central Iraq, the 2012

---

<sup>30</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 2d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>31</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 2d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>32</sup> Letter from Foreign and Commonwealth Office, dated 27 July 2011 entitled Freedom of Movement and requirements to transfer personal documentation in order to relocate in Iraq, 27 July 2011 (hard copy),

<sup>33</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, C. Internal Flight or Relocation Alternative, b) Summary for IFA/IRA in Southern and Central (page 52) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

UNHCR Eligibility Guidelines - which were taken into account by the Upper Tribunal in [HM and others \(Article 15\(c\)\) Iraq CG \[2012\] UKUT 00409\(IAC\)](#) - said that UNHCR generally consider that even in 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, an IFA/IRA may not be a reasonable option in most cases. Reports of insecurity, problematic living conditions and lack of documentation in southern and central Iraq militate against the availability of an IFA/IRA. Further, relocation to an area with a predominantly different ethnic or religious demographic is not reasonable due to latent or overt tensions between ethnic or religious groups. This can be particularly the case when considering relocation of Sunnis to predominantly Shi'ite areas or vice versa.<sup>34</sup>

**2.4.18** In its report covering July-December 2012 UNAMI notes that according to a door-to-door assessment conducted by UNHCR during the reporting period, 33,309 families (191,162 individuals) live in informal settlements in Baghdad alone. IDPs living in settlements continue to face serious challenges, with sub-standard shelter and lack of access to basic services. For displaced women and girls, the harsh economic and social conditions create particular protection challenges, with an increased risk of gender-based violence and exploitation. IDPs in informal settlements remain at risk of eviction. In Kirkuk, the government threatened to evict persons found to be unregistered or without legal residency or other official documentation. On 18 October 2012, Kirkuk police arrested 36 civilians from other governorates in Wahid Huzayran quarter in south Kirkuk for failing to have legal identity documents.<sup>35</sup>

**2.4.19** The Home Office does not however accept UNHCR's conclusions on internal relocation from the central governorates and consider that there is likely to be considerable scope for internal relocation that achieves both safety and reasonableness. In the country guidance case of [MK \(documents – relocation\) Iraq CG \[2012\] UKUT 00126 \(IAC\)](#) the Upper Tribunal concluded that :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 and it is not a factor likely to make return to any part of Iraq unsafe or unreasonable. The Upper Tribunal went on to find:

- (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

<sup>34</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, C. Internal Flight or Relocation Alternative, b) Summary for IFA/IRA in Southern and Central Iraq (page 56) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>35</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 12.2.1 Internally Displaced Persons (IDPs) [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

alternative in Iraq, bearing in mind in particular the levels of governmental and NGO support available.

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 [para 87].

- 2.4.20** Furthermore in the country guidance case of [HM and others \(Article 15\(c\)\) Iraq CG \[2012\] UKUT 00409\(IAC\)](#) the Upper Tribunal found that further evidence that has become available since the Tribunal heard [MK \(documents – relocation\) Iraq CG \[2012\] UKUT 00126 \(IAC\)](#) 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.
- 2.4.21** Caseworkers must carefully consider the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant and the specific risk to that individual.
- 2.4.22** When considering the reasonableness or otherwise of internal relocation caseworkers will need to consider the health, financial circumstances and support network of the claimant as well as the suitability of the proposed area and whether this would be accessible to the returnee, taking into account issues such as ethnicity, religion, gender, place of habitual residence, age. Caseworkers need to consider the ability of the persecutor to pursue the claimant in the proposed area, and the protection available to the claimant in that area from State authorities. The situation in Iraq is complex and still evolving. Claims should be considered with the most up-to-date country of origin information.

## **2.4 Country guidance caselaw**

[HM and others \(Article 15\(c\)\) Iraq CG \[2012\] UKUT 00409\(IAC\) \(13 November 2012\)](#). In this country guidance case the Upper Tribunal found that:

- (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 00126 \(IAC\)](#), 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 Tribunal also made the following relevant additional findings:

#### Sunni/Shi'a

297 ... 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). [...]

#### 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. [...]

#### 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.

**Note:** An appeal challenging this determination (and that of [MK](#)) was dismissed by the Court of Appeal on 23 October 2013 in the case of [HF \(Iraq\) & Ors v Secretary of State for the Home Department \[2013\] EWCA Civ 1276](#) (23 October 2013)

[MK \(documents – relocation\) Iraq CG \[2012\] UKUT 00126 \(IAC\) \(25 April 2012\)](#). In this country guidance case the Upper Tribunal concluded that:

- (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 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.

**[EA \(Sunni/Shi'a mixed marriages\) Iraq CG \[2011\] UKUT 00342 \(IAC\). 26 September 2011](#)** In this country guidance case the Upper Tribunal concluded that:

- (i) In general there is not a real risk of persecution or other significant harm to parties to a Sunni/Shi'a marriage in Iraq.
- (ii) 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.
- (iii) 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 as Baghdad, where mixed Sunni and Shi'a families live together, or to the Kurdistan region.

**[QD \(Iraq\) v Secretary of State for the Home Department \[2009\] EWCA Civ620 \(24 June 2009\)](#)** The Court of Appeal provided further domestic guidance on [Elqafaji](#) and that the test to be applied "Is there in a country or a material part of it such a high level of indiscriminate violence that substantial grounds exist for believing that an applicant, solely by being present there, faces a real risk which threatens his life or person?" The Court of Appeal also clarified that the word "exceptional" is used by the ECJ to stress that not every armed conflict or violent situation will attract the protection of Article 15(c). The reference to 'threat' does not dilute the need for there to be a real risk. The phrase "situations of international or internal armed conflict" is broad enough to include any situation of indiscriminate violence which reaches the level described in [Elqafaji](#). There is no requirement that the armed conflict itself must be "exceptional" but there must be an intensity of indiscriminate violence sufficient to meet the test in [Elqafaji](#).

**[Elqafaji v. Staatssecretaris van Justitie, C-465/07, European Union: European Court of Justice, 17 February 2009](#)** The ECJ in this case found that Article 15(c) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, in conjunction with Article 2(e) thereof must be interpreted as meaning that:

- the existence of 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.” (Paragraph 45)

[FH v Sweden. 32621/06 \[2009\] ECHR 99 \(29 January 2009\)](#) The ECtHR concluded 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 ECHR.

[ZQ \(serving soldier\) Iraq CG \[2009\] UKAIT 00048 \(2 December 2009\).](#) The Tribunal concluded that:

- i) There is no reason to seek to develop special principles of refugee law to deal with cases of soldiers. The approach to the meaning of persecution and protection (and of the need for protection to be practical) as set out in Horvath [\[2000\] UKHL 37](#) and in the Persons In Need of International Protection Regulations SI 2006/2525 is well able to accommodate such cases. The case of Fadli [\[2000\] EWCA Civ 297](#) has to be read and applied in the light of in the subsequent decisions of the higher courts, including Sepet and Bulbul [\[2003\] UKHL 15](#) and Krotov [\[2004\] EWCA Civ 69](#) as well as in the light of the Protection Regulations.
  - ii) Whether an asylum claimant is a soldier rather than a civilian has a significant impact on risk assessment. Assessment of any harm a soldier if returned might face must take account of his particular circumstances, including when he is not in barracks or on active duty. However, in general, serving soldiers cannot expect to be protected against military violence.
  - iii) As a general rule fears a soldier may have about having to perform military service cannot give rise to a refugee claim. That rule, however, is subject to exception. One exception already identified by the Tribunal and higher courts concerns those who would face punishment for being forced to participate in acts contrary to international humanitarian law (IHL). A further exception may arise when serving soldiers face being exposed by their country's commanders to a consistent pattern of military violence contrary to the laws of war. However, where fighting of this kind is taking place the state's duty to protect its soldiery will be heavily attenuated, by virtue of its primary responsibility to defend itself and its citizenry and will in any event vary depending on a wide range of circumstances.
  - iv) Enemy targeting of a soldier off duty or of members of his family is not necessarily contrary to IHL but may very often be contrary to IHL norms of military necessity, distinction and proportionality.
  - v) Insofar as the risk categories of NS (Iraq; perceived 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.
- (iv) [NH \(Iraq-Yazidis\) Iraq CG \[2004\] UKIAT 00306](#) is no longer to be followed. Whilst being a Yazidi does not as such place a person at risk on return to central and southern Iraq, it is a significant risk factor and special reasons would need to exist for not finding that such a person faces a real risk of persecution or treatment

contrary to Article 3 ECHR.

**[SR \(Iraqi Arab Christian: relocation to KRG\) Iraq CG \[2009\] UKAIT 00038 \(29 July 2009\)](#)** The Tribunal found that 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. It also found that once in the KRG, the appellant would be able to manage, particularly with the support of the church. This existence may be difficult without family or clan support, but would not be unduly harsh. (para 98)

**[SI \(expert evidence - Kurd - SM confirmed\) Iraq CG \[2008\] UKAIT 00094 \(15 December 2008\)](#)**. The Tribunal found:

1. Failure by the respondent to adduce her own expert evidence cannot imbue expert evidence submitted by an appellant with any greater value than it merits when considered alongside the rest of the evidence.
2. The evidence relating to the official justice system in the KRG falls short of demonstrating that all persons who are tried in that part of Iraq will face a process that would amount to a flagrant denial of the notion of a fair trial: **[SM and Others \(Kurds-Protection-Relocation\) Iraq CG \[2005\] UKAIT 00111](#)** followed.
3. The guidance given in **[SM](#)** 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.
4. "Honour killings" and "blood feuds" are distinct phenomena, albeit they may sometimes overlap in practice.

**[HA \(WCPI – IMIK – KRG\) Iraq CG \[2007\] UKAIT 00087 \(23 October 2007\)](#)**. In this country guidance case the Tribunal found that:

- (i) There is no satisfactory evidence that Workers Communist Party of Iraq (WCPI) members in the Kurdish Regional Governorates are at risk from IMIK (the Islamic Movement of Kurdistan) or anyone else. There is some evidence that the WCPI has a presence both in the KRG and the rest of Iraq.
- (ii) There is no satisfactory evidence that IMIK now enforces its views by violent means in the KRG. It has six seats in the KRG parliament.
- (iii) This determination does not consider issues relating to the WCPI or IMIK in the parts of Iraq that are not in the KRG. This determination supersedes **[DH \(Risk – IMIK – KAA\) Iraq CG \[2002\] UKIAT 05099](#)** but does not consider issues relating to the WCPI or IMIK outside the KRG.

**[SM \(Entry clearance application in Jordan – proportionality\) Iraq CG \[2007\] UKAIT 00077 \(10 September 2007\)](#)** Further evidence since the Tribunal's decision in **[SA \(Entry clearance application in Jordan - proportionality\) Iraq CG \[2006\] UKAIT 00011](#)** concerning the procedures and general difficulties facing an Iraqi in returning to Iraq and travelling to Jordan to make an application for entry clearance does not lead to a conclusion different from that in **[SA](#)** that generally it is not disproportionate to a legitimate aim within Article 8(2) to require an Iraqi to return and apply in that way.

**[NS \(Iraq: perceived collaborator: relocation\) Iraq CG \[2007\] UKAIT 00046 \(12 April 2007\)](#)** The Tribunal concluded that:



- (i) An Iraqi who is perceived as a collaborator as a consequence of his work for the UN, an NGO, the Multi-National Force, the Coalition Provisional Authority or a foreign contractor, and who has attracted the hostility of an armed group, faces a real risk of persecution on return to his home area
- (ii) Ability to relocate in Iraq to an area other than the KRG for such a person would depend on the circumstances of the case, including such matters as the reach of the group which has targeted him.
- (iii) Relocation to the KRG for any Iraqi is in general only feasible if the person concerned would be allowed to enter and legally reside in the area of relocation, and has family, community and/or political links there enabling them to survive.
- (iv) LM Iraq CG [2006] UKAIT 00060 (guidance on Christian women perceived as collaborators and internal relocation to KRG) is here considered and extended. The guidance in RA (Christians) Iraq CG [2005] UKIAT 00091 remains for the time being valid in cases concerning Christians with no other distinguishing profile.

**LM (Educated women – Chaldo-Assyrians – risk) Iraq CG [2006] UKAIT 00060 (26 July 2006)** The Tribunal concluded that female Christians not at risk of persecution or Article 3 ECHR breach but additional factors (prominent position in companies associated with Multi-National Force, westernised, women's rights activities or refusal to wear hijab, lack of connections in the Kurdistan region, no family support, English speaking or non-Kurdish speaking) may increase risk to level engaging both Conventions. **RA (Christians) Iraq CG [2005] UKIAT 00091 (22 April 2005)** remains correct on position of male Christians. No sufficiency of protection outside Kurdistan region.

**SA (Entry clearance application in Jordan – proportionality) Iraq CG [2006] UKAIT 00011 (9 February 2006)** In the light of evidence now available the Tribunal is satisfied that generally it is not disproportionate to a legitimate aim within article 8 (2) to require an Iraqi national to return to Iraq and travel to Jordan to make an application for entry clearance. There is significant further evidence to show that the guidance in **KJ (Entry Clearance – Proportionality) Iraq CG [2005] UKIAT 00066** no longer applies.

**SM and Others (Kurds - Protection - Relocation) Iraq v. Secretary of State for the Home Department, CG [2005] UKIAT 00111 (29 June 2005)** The Tribunal considered that “the authorities in the KRG are able as a matter of international law to provide security and protection to the inhabitants of that region.” (para 52) They added that, “We also conclude that there is general sufficiency of protection for Kurds in the KAA subject to the exceptional case where a person has either fallen foul of the party in his own area and remains within that area or where there is a tribal dispute which unusually would not be resolved either by mediation or by tribal leaders or the intervention of one of the political parties.” (para 279)

On internal relocation the Tribunal found that “relocation from the KDP area to the PUK area or vice versa in the north would not be without its difficulties, but in general considered that it would not be unduly harsh nor would it lead to treatment giving rise to a breach of a person’s human rights. Mutandis mutandis the Tribunal were of the same view as regards relocation away from the area of a tribe with which a person has experienced problems. The Tribunal also considered that relocation to the south for a Kurd 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 one of the two political parties i.e. the KDP or the PUK of whom they had a fear.”

### **3. Main categories of claims**

- 3.1** This Section sets out the main types of asylum claim, humanitarian protection claim and Discretionary Leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Iraq. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below. All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at [asylum policy instructions](#).
- 3.2** Each claim should be assessed to determine whether there is a reasonable likelihood that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in the Court of Appeal's judgment in [Karanakaran](#) should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction '[Considering the asylum claim and assessing credibility](#)').
- 3.3** For any asylum cases which involve children either as dependants or as the main applicants, caseworkers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction '[Every Child Matters; Change for Children](#)' sets out the key principles to take into account in all Agency activities.
- 3.4** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. (See Asylum Instruction on [Humanitarian Protection](#)). Where an application for asylum and Humanitarian Protection falls to be refused, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. They must also consider whether there are any compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instruction on [Discretionary Leave](#)).

#### **Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR**

- 3.5** An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR). Caseworkers are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of Humanitarian Protection because the Article 3 threshold has been met.

#### **Other severe humanitarian conditions and general levels of violence**

- 3.6** There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point

that return in itself could, in extreme cases, constitute inhuman and degrading treatment. Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.

- 3.7** As a result of the [Sufi & Elmi v UK](#) judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for Humanitarian Protection.

### **Credibility**

- 3.8** This guidance is not designed to cover issues of credibility. Caseworkers will need to assess credibility issues based on all the evidence available to them from the interview, documentary evidence, and country of origin information. For guidance on credibility see 'Section 4 – Making the Decision in the Asylum Instruction [‘Considering the asylum claim and assessing credibility’](#). Caseworkers must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file. In all other cases, the caseworkers should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

### **3.9 General security situation**

- 3.9.1** Many applicants will make an asylum and/or human rights claim based on the poor security situation in Iraq, stating that it is unsafe for them to return as they may be caught up and injured or killed in a violent incident.

For further guidance on how to assess the general security situation refer to the [Home Office Country Information and Guidance product entitled, ‘Iraq: The security situation in the ‘contested’ areas of Iraq’, dated 22 August 2014.](#)

### **3.10 Individuals associated (or perceived to be associated) with the Iraqi government or former multi-national forces.**

- 3.10.1** Some claimants will make an asylum or human rights claim due to a fear of persecution/ ill treatment or kidnapping at the hands of armed groups or militants on account of their association (or perceived association) with the Iraqi government or former multi-national forces.
- 3.10.2 Treatment.** The UNHCR Eligibility Guidelines of May 2012 record that according to the UN Secretary General's 28 November 2011 report, there was a marked increase in assassinations of government officials, professionals and security personnel. Attacks include instances of intimidation, abductions and assassinations, including by the use of improvised explosive devices (IEDs), (suicide) car bombs and targeted killings with firearms equipped with silencers or

“sticky bombs” attached to vehicles. Many reports of intimidations and threats are made. Incidents of targeted attacks have been reported in almost all of central and southern Iraq, but particularly in Al-Anbar, Baghdad, Babel, Diyala, Kirkuk, Ninewa and Salah Al-Din Governorates.<sup>36</sup>

- 3.10.3** UNHCR considers that individuals associated with, or perceived to be supporting the Iraqi authorities, the ISF or the (former), the Multi National Forces in Iraq (MNF-I) or the United States Security Forces in Iraq (USF-I) are, depending on the circumstances of their claim, likely to be in need of international refugee protection on account of their (imputed) political opinion. UNHCR sets out that the specific groups that may be associated with or perceived to be supporting the Iraqi authorities include the following: Government Officials and Employees, Former Members of the Iraqi Security Forces (ISF), Sahwa Members, Traditional Tribal, Religious and Community Leaders Members of Political Parties, Individuals Affiliated with the USF-I, Foreign Governments, NGOs or International Companies.<sup>37</sup>
- 3.10.4** UNHCR also reports that professionals such as judges or academics, have reportedly also been targeted for their (perceived) support of the Iraqi authorities, the political process or the USF-I.<sup>38</sup>
- 3.10.5** According to the October 2012 Quarterly Report to Congress by the Special Inspector General for Iraq Reconstruction (SIGI), “Lethal attacks on Iraqi Police (IP) and Iraqi Army (IA) soldiers rose this quarter—and most sharply in September, when more than 180 IP and IA personnel were killed and 230 wounded. Assassinations of government officials and tribal leaders in Iraq continued unabated this quarter. More than 100 senior government officials were targeted for assassination, with 58 killed. These attacks also killed or wounded more than 120 family members, bodyguards, or other citizens who were in the vicinity of the apparently targeted individuals. Ministry officials, judges, members of parliament, tribal sheiks, and senior ISF officials were targeted by bombs and armed attacks (including home invasion). The largest number of attacks on officials and other leaders occurred in Baghdad, with the second-largest number of attacks around Kirkuk”.<sup>39</sup>
- 3.10.6** The Danish Immigration Service’s February and April 2010 Fact Finding Mission to Iraq report cited a source in Bagdad as noting that individuals who had cooperated with the Iraqi security force or US/multi-national forces; or those persons working for foreign companies... including relatives to all the above-mentioned categories of persons could also be at risk of being targeted.<sup>40</sup>

---

<sup>36</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012 A. Risk Profiles, 1. Individuals Associated with (or Perceived to be Supporting) the Iraqi Authorities and the (former) MNF-I/USF-I (page 14) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>37</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012 A. Risk Profiles, 1. Individuals Associated with (or Perceived to be Supporting) the Iraqi Authorities and the (former) MNF-I/USF-I (page 14 - 17) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>38</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012 A. Risk Profiles, 1. Individuals Associated with (or Perceived to be Supporting) the Iraqi Authorities and the (former) MNF-I/USF-I (page 14 - 17) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>39</sup> Special Inspector General for Iraq Reconstruction (SIGI), Quarterly Report to Congress, 30 October 2012, Trends in Attacks and Casualties p.73 [http://www.sigir.mil/files/quarterlyreports/October2012/Report\\_-\\_October\\_2012.pdf#view=fit](http://www.sigir.mil/files/quarterlyreports/October2012/Report_-_October_2012.pdf#view=fit)

<sup>40</sup> Danish Immigration Service, Security and Human Rights in South/Central Iraq, Report from Danish Immigration Service’s fact-finding mission to Amman, Jordan and Baghdad, Iraq 25 February to 9 March and 6 to 16 April 2010, 10 September 2010 (page 25)

- 3.10.7** According to the UNAMI report on Human Rights in Iraq between January to June 2012, assassinations claimed the lives of at least 25 civilians during the reporting period. Members of the Iraqi Police were the most frequently targeted; other victims included teachers, legal professionals, and government officials. Often family members and other civilians are killed or wounded in these attacks.<sup>41</sup> The UNAMI report covering July to December 2012 found that assassinations continued to claim the lives of many Iraqis. The perpetrators of such attacks often remained unknown. Judges, lawyers and others working in the civil or criminal justice systems continued to be singled out for attack. There were at least ten cases of kidnapping reported from Kirkuk, targeting different categories of persons within the community.<sup>42</sup>
- 3.10.8** The Centre for Strategic and International Studies reports that in 2012 there were 964 reported incidents involving deadly shootings, or cases of bodies found shot dead, with a death toll of 1,616. Of these deaths, 667 were of a single individual (and many of the others family members, bodyguards or other bystanders in the vicinity of the target).<sup>43</sup> The Institute for the Study of War (ISW) reports that Al-Qaeda in Iraq (AQI) announced “The Soldiers’ Harvest” campaign on 29 July 2013, which in particular targets the Iraqi Security Forces. AQI’s pursuit of its objectives is most visible in the targeted assassination of government officials, particularly Sunnis working in government. A number of prominent assassination attempts occurred in August 2013. Judges are classical targets for AQI. On 29 September 2013, five mukhtars, neighbourhood government representatives, were killed.<sup>44</sup>

**See also:** [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

- 3.10.9 Conclusion.** Persons perceived to collaborate or who have collaborated with the current Iraqi Government and its institutions, the former US/multi-national forces or foreign companies are at risk of persecution in Iraq. This includes certain affiliated professionals such as judges, academics, teachers and legal professionals. A claimant who has a localised threat on the basis that they are perceived to be a collaborator may be able to relocate to an area where that localised threat does not exist. The case owner will need to take into consideration the particular profile of the claimant, the nature of the threat and how far it would extend, and whether it would be unduly harsh to expect the claimant to relocate. A claim made on these grounds may be well founded and a grant of refugee status due to political opinion

---

[http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport\\_Security\\_and\\_HR\\_in\\_South\\_Central\\_Iraq.pdf](http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport_Security_and_HR_in_South_Central_Iraq.pdf)

<sup>41</sup> UNAMI, Report on Human Rights in Iraq: January-June 2012, 27 December 2012, 2. Armed violence and civilians

[http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=9\\_118c73a98ab906fdc6f1108aaa3e4dcb&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=9_118c73a98ab906fdc6f1108aaa3e4dcb&Itemid=650&lang=en)

<sup>42</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 2. Armed violence and civilians  
[http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

<sup>43</sup> Center for Strategic and International Studies, Request for comments: Violence in Iraq: The Growing Risk of Serious Civil Conflict, 9 September 2013, Figure Six: Bombings and Shootings Remained the Key Killing Mechanisms through 2012

[http://csis.org/files/publication/130909\\_Violence\\_in\\_Iraq\\_Growing\\_Risks.pdf](http://csis.org/files/publication/130909_Violence_in_Iraq_Growing_Risks.pdf)

<sup>44</sup> Institute for the Study of War, Background: AQI’s ‘Soldiers’ harvest’ campaign, 9 October 2013

[http://www.understandingwar.org/sites/default/files/Backgrounder\\_SoldiersHarvest.pdf](http://www.understandingwar.org/sites/default/files/Backgrounder_SoldiersHarvest.pdf)

or imputed political opinion may be appropriate depending on the facts of the case.

**3.10.10** In general kidnapping motivated by economic reasons does not engage the UK's obligations under the 1951 UN Convention and therefore a grant of asylum would not be appropriate. However, in some circumstances it may be that grounds for fear of kidnapping due to economic reasons may be well founded and a grant of Humanitarian Protection appropriate depending on the facts of the case and the particular profile of the claimant. If an individual being targeted for kidnapping on account of being the relative of another individual, he or she may have a well-founded fear of persecution on account of their membership of a particular social group (family) regardless of why or whether the individual themselves is at risk – see asylum instruction - [Considering the asylum claim and assessing credibility](#). A grant of asylum would be appropriate in such cases.

### **3.11 Journalists**

**3.11.1** Some claimants will make an asylum or human rights claim due to a fear of persecution/ ill treatment at the hands of authorities, armed groups or militants on account of their work as a journalist.

#### **Treatment of journalists in Central and Southern Iraq**

**3.11.2** The environment for journalists remained oppressive in 2012. At the end of 2012 the Iraqi parliament was considering a number of laws restricting the media and freedom of expression and assembly, including the draft Law on the Freedom of Expression of Opinion, Assembly, and Peaceful Demonstration, and a draft law regulating the organization of political parties that punishes expression “violating public morals” and conveying “immoral messages.” In September, the Federal Supreme Court denied a petition by a local press freedom organization to repeal the Journalists Protection Law on the basis that it fails to offer meaningful protection to journalists and restricts access to information.<sup>45</sup>

**3.11.3** The Committee to Protect Journalists (CPJ) ranked Iraq at the top of its 2012 Impunity Index, which focuses on unsolved journalist murders, and reported that there have been no convictions for murders of journalists since 2003. Iraqi authorities made no arrests for the murder of Hadi al-Mahdi, a journalist critical of the government, killed in September 2011.<sup>46</sup> The CPJ further reports that there is no sign that the authorities are investigating any of the more than 90 journalist killings in the past decade, including 3 in Mosul in October 2013 alone. According to the CPJ, Iraq's unwillingness and inability to investigate and prosecute the killers of journalists emboldens would-be assailants.<sup>47</sup>

**3.11.4** The UNHCR Eligibility Guidelines report that Iraqi journalists and media workers in central and southern Iraq continue to be threatened, kidnapped, killed or otherwise intimidated with impunity, mostly by non-state actors. UNHCR noted that while some have been killed in crossfire or other acts of general violence, the majority of those who have lost their lives have been victims of specific attacks based on their ethnicity or religion and/or their (imputed) political opinion. Given that most Iraqi news and television stations are owned by either political parties, religious groups

---

<sup>45</sup> Human Rights watch, World report 2013; Iraq, 31 January 2013 <http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2>

<sup>46</sup> Human Rights watch, World report 2013; Iraq, 31 January 2013 <http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2>

<sup>47</sup> Committee to Protect Journalists, Gunmen kill Iraqi journalist near his home in Mosul, 25 October 2013 <http://www.cpj.org/2013/10/gunmen-kill-iraqi-journalist-near-his-home-in-mosu.php>

or by the Iraqi Government, journalists and other media workers are often considered to represent a particular political or sectarian party or opinion. As a result, armed groups have repeatedly targeted media outlets and employees for their perceived “Western” or pro-American views, their affiliation with the Iraqi Government, or their sectarian or ethnic association.

- 3.11.5** In its May 2012 Eligibility Guidelines, UNHCR stated that a number of reports state that journalists and media professionals face harassment, intimidation, arrest and abuse at the hands of the ISF or political parties. Journalists investigating corruption or criticizing government officials appear to be particularly at risk. The ISF has allegedly arrested journalists without charge. Several media outlets were raided by the ISF and equipment was destroyed or confiscated.<sup>48</sup>
- 3.11.6** On 8 May 2012, the National Communications and Media Commission of Iraq (NCOM) asked the Interior Ministry to “take the necessary legal measures” against 44 foreign and Iraqi media outlets it stated were operating illegally. Human Rights Watch reported that as of January 2013, the media outlets remained open, but registration is difficult, leaving them vulnerable to closure.<sup>49</sup>
- 3.11.7** A draft law on information technology crimes awaits parliamentary ratification. One article provides for life imprisonment and large fines for vaguely defined crimes, such as “intentionally” using computer devices and information networks to undermine the country’s “supreme economic, political, military, or security interests.”<sup>50</sup>
- 3.11.8** Although Iraq enjoys a higher level of media freedom than many Arab countries, major problems still exist with legislation governing the media, and there is not yet a strong culture of supporting press freedom. Draft legislation currently being debated in the Council of Representatives (see para 3.11.2) is ambiguous and has the potential to restrict journalists’ ability to report freely.<sup>51</sup>
- 3.11.9** UNAMI received reports that between July-December 2012, journalists continued to be targeted with violent attacks, harassment, intimidation and arbitrary arrest for reasons related to their profession. Such acts were perpetrated by extremists and insurgents, government officials, or unidentified attackers.<sup>52</sup> The NGO Iraqi Journalists Rights Defence Association reported 50 acts of harassment against 75 journalists outside of the IKR during the year, including 16 cases of physical assault, several attempted killings, and numerous arrests and detentions, some of which resulted in security forces confiscating equipment.<sup>53</sup> In April 2013, 50 men armed with clubs and knives attacked four Baghdad-based newspapers – Al-Nass, Al-Barlaman, Al-Dustour and Al-Mustaqbal Al-Iraqi, smashing computer equipment and furniture and assaulting employees. Six journalists were hospitalized.<sup>54</sup>

<sup>48</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012 A. Risk Profiles a) Journalists and Other Media Professionals, i. Central and Southern Iraq (page 22) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>49</sup> Human Rights watch, World report 2013; Iraq, 31 January 2013 <http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2>

<sup>50</sup> Human Rights watch, World report 2013; Iraq, 31 January 2013 <http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2>

<sup>52</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 2. Armed violence and civilians

<sup>52</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 2. Armed violence and civilians [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

<sup>53</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, section 2a, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>54</sup> Reporters Without Borders, Growing tribulations of Iraqi journalists, 6 April 2013 [http://en.rsf.org/iraq-growing-tribulations-of-iraqi-06-04-2013\\_44309.html](http://en.rsf.org/iraq-growing-tribulations-of-iraqi-06-04-2013_44309.html)

Deleted: ¶

### **Treatment of journalists in the Kurdistan region of Iraq**

- 3.11.10** Since 2003, numerous newspapers, television and radio stations have been established in the Kurdistan Region: many of them are affiliated with political parties, while a few are independent and non-partisan. Officially, there is no censorship in the Kurdistan Region. However, independent journalists and media organizations have repeatedly claimed that press freedom is restricted and that criticism of the ruling parties can lead to physical harassment, seizure of equipment, arbitrary arrest and legal prosecution on charges of defamation.<sup>55</sup>
- 3.11.11** In 2008, the Kurdistan Regional Government (KRG) enacted a Press Law, which, inter alia, bans censorship, prohibits the closure of news outlets by the authorities, abolishes prison terms and places a ceiling on damages for media-related offenses. However, reports suggest that the KRG authorities do not implement the law systematically and continue to use the more restrictive 1969 Iraqi Penal Code and the 1951 Iraqi Civil Code provisions to prosecute journalists. The ruling parties, the Kurdistan Democratic Party and the Patriotic Union of Kurdistan, as well as influential party members and government officials, have filed numerous lawsuits, mostly against independent journalists and news organizations that published articles they reportedly considered to be critical. Such libel suits appear to be attempts to prevent criticism of the KRG or the ruling parties. As a result, many media outlets self-censor with respect to key issues, in particular corruption and nepotism involving the ruling parties.<sup>56</sup>
- 3.11.12** In the Iraqi Kurdistan Region (IKR) many journalists continued to be tried, convicted, and imprisoned under penal law, despite the 2008 media freedom law that decriminalized publication-related offenses. The Kurdistan Journalists' Syndicate documented 37 lawsuits against journalists during the first six months of the year in the region. According to syndicate officials, the 2008 law is the sole basis for prosecution of journalists for publication offenses, but penal law allows prosecution for offenses to public morals and other crimes. Public officials regularly resorted to libel charges under criminal law, resulting in punitive fines against individual media outlets and editors, often for publishing articles on alleged corruption. For example, the Kurdistan Journalists' Syndicate reported that the chief editor of Zang magazine and a journalist for Bazaw magazine both received fines of one million Iraqi dinars (approximately \$858) for publishing articles with content protected by the 2008 law. Public officials also provided money and other benefits to journalists, including access to venues, for positive reporting.<sup>57</sup>
- 3.11.13** Throughout the IKR there were numerous instances of attempted killing, beatings, imprisonment, and property destruction against media. For example, on May 8, security forces attacked two journalists covering protests in front of the parliament and confiscated their equipment. The independent media freedom NGO Metro Centre documented 132 acts of harassment in the IKR during 2012, including five death threats, 50 arrests, 21 beatings and several lawsuits. In many cases the aggressors wore military or police uniforms. With few exceptions these attacks

<sup>55</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, A. Risk Profiles a) Journalists and Other Media Professionals, ii. Kurdistan Region, (page 22) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>56</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, A. Risk Profiles a) Journalists and Other Media Professionals, ii. Kurdistan Region, (page 22) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>57</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, section 2a, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204362>



were directed at the independent and opposition media, mainly the Kurdish News Network TV affiliated with the Goran (Change) Party and the independent Nalia Radio and Television, rather than media controlled by the ruling parties.

**3.11.14** Human Rights Watch reported in February 2013 that the Asayish - the Kurdistan Security Agency - and police arrested without warrants journalists and others who published articles criticizing public officials, and detained them without charge or trial for periods ranging from several weeks to a year. Such abuses have taken place in a climate of impunity, with no prosecutions of members of the Asayish or other security forces for exceeding their powers or breaching detainees' rights.<sup>58</sup>

**3.11.15** In addition to libel and defamation lawsuits, critical journalists and media employees in the Kurdistan Region are reportedly subject to frequent intimidation and threats, arbitrary arrest and detention, beatings and confiscation or destruction of equipment, allegedly at the hands of KRG officials and Kurdish Security Forces. Media offices have frequently been targeted for raids or arson attacks. Attacks against journalists, media professionals and media outlets are most frequently reported during political events or security crises such as elections, popular protests, Iranian/Turkish bombing of border areas, or the "Dahuk riots" in early December 2011. Journalists and news outlets affiliated with opposition parties are at risk of being forcibly prevented from covering such events. Reports suggest that journalists have also been targeted for physical assaults, abduction and assassination. The perpetrators of attacks against journalists are usually not known and most attacks are allegedly not promptly and transparently investigated. Journalists often express little trust in the independence of the judicial authorities and claim that persons affiliated with political parties are involved in attacks.<sup>59</sup>

**3.11.16** Journalist, Zardasht Osman, was abducted and murdered after publishing a satirical article about Kurdistan Regional Government (KRG) president Massoud Barzani in 2010. The KRG never released details of the investigation into his death.<sup>60</sup>

**See also:** [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

**3.11.17 Conclusion.** In South and Central Iraq journalists and media professionals suffer harassment, destruction and confiscation of equipment and arrest by the Iraqi authorities. They also experience threats, violent attacks, extra-judicial killings and kidnappings by armed groups. There have been no convictions for over 90 murders of journalists since 2003 and the authorities are unable and unwilling to protect journalists. In the Kurdistan Region of Iraq, journalists and media professionals experience intimidation, physical harassment, seizure of equipment, arbitrary arrest, detention and legal prosecution on libel charges by KRG officials and Kurdish Security Forces. They also experience assault, abduction and assassination by unknown perpetrators which are allegedly not properly investigated.

---

<sup>58</sup> Human Rights Watch, Iraqi Kurdistan: Free Speech Under Attack, 10 February 2013

<http://www.hrw.org/news/2013/02/09/iraqi-kurdistan-free-speech-under-attack>

<sup>59</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, A. Risk Profiles a) Journalists and Other Media Professionals, ii. Kurdistan Region, (page 22) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>60</sup> Human Rights watch, World report 2013; Iraq, 31 January 2013 <http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2>

**3.11.18** Iraqi journalists and media professionals are at risk of ill treatment, amounting to persecution, by the authorities in South and Central Iraq and in the Kurdistan Region of Iraq and by armed groups. Effective protection is unlikely to be available for media professionals throughout Iraq. Journalists who are able to establish that their perceived political opinion or activities mean that they are at real risk of persecution or serious harm and who cannot avoid that risk by internally relocating will have a well-founded fear of persecution and should be granted asylum

### **3.12 Former members of the Ba'ath Party**

**3.12.1** Some claimants will make an asylum or human rights claim due to their fear of ill-treatment amounting to persecution at the hands of state and non state agents on account of their past membership of the Ba'ath party.

**3.12.2 Treatment.** De-ba'athification is the name given to a number of processes initiated by the Coalition Provisional Authority (CPA) shortly after the fall of Iraq's Ba'athist regime. One was the complete dissolution of the Iraqi army as well as certain organisations (mostly security-related) that were either notorious for their role in enforcing Ba'ath party rule, or whose resources might offer the party a means to return to power. These organisations included the Iraqi army, the intelligence services, the Olympic committee and others, dissolved by CPA order in May 2003. The other process was the dismissal of many thousands of civil service employees from their positions. This process was initiated by the Coalition Provisional Authority, but later continued and was controlled by Iraq's Higher National De-ba'athification Commission (HNDBC). The assumption underpinning De-ba'athification procedures was that the elite of the Ba'ath party could not have achieved their level without committing acts that seriously violated human rights standards or were deeply corrupt.<sup>61</sup>

**3.12.3** The constitution provides for the right to form and join associations and political parties and specifically mandates that this right be regulated by law. The government generally respected this right in practice, except for the legal prohibitions on expressing support for the Baath Party or Zionist principles.<sup>62</sup> Political parties representing a wide range of viewpoints operate without legal restrictions, but the Baath Party is officially banned.<sup>63</sup>

**3.12.4** A report of a Danish Immigration Service fact finding mission published in September 2010 cited a reliable source as noting that previous affiliation to the Ba'ath party could add to a person's insecurity. However, being targeted solely with reference to former Ba'athist association is not likely as everyone employed by the previous regime had to be a member of the Ba'ath party. According to Christine Fowler and Mohamed El Ghannam of UNDP - Iraq, senior members who were genuinely at risk have either fled abroad, for example to Syria, or have already been dealt with harshly by the government. However, the September 2010 Danish Immigration Service fact finding mission were told that former membership of the Ba'ath party is not a determining factor when it comes to the question of whether or not a person would be targeted.<sup>64</sup>

---

<sup>61</sup>International Center for Transitional Justice, entitled *Iraq's New 'Accountability and Justice' Law*, 22 January 2008, <http://ictj.org/sites/default/files/ICTJ-Iraq-Accountability-Briefing-2008-English.pdf>

<sup>62</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, section 2b, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>63</sup> Freedom House, Freedom in the World 2013; Iraq, 10 April 2013

<http://www.freedomhouse.org/report/freedom-world/2013/iraq>

<sup>64</sup> Danish Immigration Service, Security and Human Rights in South/Central Iraq, Report from Danish

- 3.12.5** The same report also recorded that an international NGO in Amman stated that senior Ba'ath party members are targeted especially in south Iraq and some central parts. However, such a person would need to be well-known to others and other factors such as having occupied a particular exposed position are likely to have influence the risks as well. It was added that most senior Baath members left Iraq. On the other hand, accusing a person of being a former Baath member remains a favourite accusation. This can be problematic as a person wrongly accused may not be able to rectify such claims before action is taken against him.<sup>65</sup>
- 3.12.6** In its 2012 Eligibility Guidelines, UNHCR identify perceived political opponents as a risk category. The Guidelines state that after the fall of the former regime, the Coalition Provisional Authority and, subsequently, the Iraqi Government introduced a number of measures to "de-Ba'athify" the Iraqi administration and security forces. From the outset, it was reported that the implementation of relevant regulations was arbitrary, sectarian and politicized. There have been continuous claims that the Iraqi Government has used accusations of "Ba'athism" to sideline political opponents and to settle political scores. "De-Ba'athification" has reportedly been used to fire government and security officials and replace them with loyalists, and to ban political rivals from running in elections. Reported arrests of alleged Ba'ath Party members have raised concerns, given that neither the De-Ba'athification Law, nor any other law, provides for legal prosecution for Ba'ath Party membership. During an "arrest campaign" in October/November 2011, when more than 600 individuals were arrested on charges of terrorism and alleged Ba'ath Party ties, Deputy Minister of Interior Adnan Al-Asadi stated that all arrests were undertaken on the basis of the Counterterrorism Law of 2005. However, Iraqi Government officials repeatedly referred to a person's Ba'ath Party affiliation and rank to justify the arrest. The timing and circumstances, the questionable legal basis and the lack of transparency of these arrests raised serious doubts among some observers over their real motivation.<sup>66</sup>
- 3.12.7** The 2012 UNHCR Eligibility Guidelines also went on to note that after the fall of the previous regime in 2003, persons affiliated or associated with the former regime, through membership in the Ba'ath Party or as a result of their functions or profession, were subjected to systematic attacks mainly by armed Shi'ite groups. Today, 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. They may still be targeted in individual cases, although the exact motivation behind an attack may not always be known. Many former Ba'athists have found new identities as politicians, academics, tribal leaders, or members of the current Iraqi Security Forces (ISF). It is difficult to determine if attacks against them are motivated by their role under the former regime or by the person's present profile. Palestinian refugees, who are widely considered to have received preferential treatment under the former regime and

---

Immigration Service's fact-finding mission to Amman, Jordan and Baghdad, Iraq 25 February to 9 March and 6 to 16 April 2010, 10 September 2010 (page 29-30) [http://www.nyidanmark.dk/NR/ronlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport\\_Security\\_and\\_HR\\_in\\_South\\_Central\\_Iraq.pdf](http://www.nyidanmark.dk/NR/ronlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport_Security_and_HR_in_South_Central_Iraq.pdf)

<sup>65</sup> Danish Immigration Service, Security and Human Rights in South/Central Iraq, Report from Danish Immigration Service's fact-finding mission to Amman, Jordan and Baghdad, Iraq 25 February to 9 March and 6 to 16 April 2010, 10 September 2010 (page 29-30) [http://www.nyidanmark.dk/NR/ronlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport\\_Security\\_and\\_HR\\_in\\_South\\_Central\\_Iraq.pdf](http://www.nyidanmark.dk/NR/ronlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport_Security_and_HR_in_South_Central_Iraq.pdf).

<sup>66</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 31 May 2012, 2012 A. Risk Profiles, 2. Individuals (Perceived as) Opposing the Iraqi Authorities a) (Perceived) Political Opponents (page 18) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

were suspected of supporting the Sunni insurgency, have also been singled out for attacks and arrests since 2003.<sup>67</sup>

**3.12.8** In 2010 the local and international media reported the discovery of a secret detention facility in the International Zone operated by security forces under control of the Prime Minister's Office containing more than 400 Sunni detainees, of whom more than 100 were reportedly tortured. Although the government announced the closure of the detention facility in March 2011, Human Rights Watch (HRW) on 18 May 2012 reported that the facility had remained in use as late as March 2012. Government officials reported that the facility was used to hold detainees alleged to be Baath Party and Saddam Hussein loyalists in late October 2011.<sup>68</sup>

**3.12.9** From October to December 2011, the army arrested more than 1,100 alleged former members of the Baath Party said to be involved in a coup plot. Media reported that some detainees released in late 2011 and early 2012 were tortured while in custody. At the end of 2012 some detainees still awaited trial. For example, four employees of a development NGO were detained in October 2011 during the Baath Party arrests. Of the four, one employee was released on 12 February 2012, two were convicted on terrorism charges, and the fourth employee was still in pretrial detention at year's end. All four employees reported being tortured while in custody. Many Sunnis contended that the mass arrests were intended to weaken the government's political opponents.<sup>69</sup> According to a September 2013 joint NGO submission to the UN Human Rights Council, random arrests and night raids continue to be common practice in Iraq. People are arrested without warrants, charges, or on the premise that they are terrorists or Baathists.<sup>70</sup>

**3.12.10** On 12 February 2013, Iraq's de-Ba'athification committee, officially known as the Justice and Accountability Commission, unexpectedly removed Chief Justice Medhat al-Mahmoud from his position as head of the Higher Judicial Council, the most senior position in the judiciary. The action stemmed from "new evidence" supplied by the Council of Representatives regarding Judge Medhat's Ba'athist ties under the Saddam Hussein regime. Federal Appeals Court judge Ibrahim al-Humairi was named as his replacement.<sup>71</sup>

**See also:** [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

**3.12.11 Conclusion.** The Supreme Court held in [RT \(Zimbabwe\)](#) that the rationale of the decision in [HJ \(Iran\)](#) extends to the holding of political opinions. An individual

<sup>67</sup> UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 31 May 2012, 2012 A. Risk Profiles, 2. Individuals (Perceived as) Opposing the Iraqi Authorities a) (Perceived) Political Opponents (page 18) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>68</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, section 1c, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>69</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, section 1e, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>70</sup> Joint written statement\* submitted to the UN Human Rights Council by the International Organization for the Elimination of All Forms of Racial Discrimination, the Women's International League for Peace & Freedom, *et. al.* 9 September 2013.

[http://www.ecoi.net/file\\_upload/1930\\_1379601024\\_g1316900.pdf](http://www.ecoi.net/file_upload/1930_1379601024_g1316900.pdf)

<sup>71</sup> Special Inspector General for Iraq Reconstruction (SIGIR), Quarterly Reports, April 2013 [http://www.sigir.mil/files/quarterlyreports/April2013/Section1\\_-\\_April\\_2013.pdf](http://www.sigir.mil/files/quarterlyreports/April2013/Section1_-_April_2013.pdf)

should not be expected to modify or deny their political belief, or the lack of one, in order to avoid persecution.

**3.12.12** While persons affiliated or associated with the former Ba'ath Party and regime are no longer systematically targeted, some individuals may still be at risk of detention and torture by the authorities or at risk of other violations of human rights, for example as a result of personal revenge of former victims or their families. Each case must be carefully considered with regard to the particular profile of the claimant. For persons fearing non-state agents it must be assessed whether effective protection is available and whether internal relocation to escape the threat of persecution is relevant and would not be unduly harsh.

**3.12.13** In establishing whether a claimant has a well founded fear of persecution on account of membership of the former Ba'ath party, a claimant will need to show that their activities for the Ba'ath party have brought them to the adverse attention of those they fear, whether locally through their direct actions or on a wider stage because they are inextricably associated with the abuses of the former regime.

**3.12.14** Caseworkers should note that some mid to high ranking members of the Ba'ath party may have been responsible for serious human rights abuses and crimes against humanity. If it is accepted that a claimant was an active operational high ranking member for the Ba'ath party and the evidence suggests he/she has been involved in such actions, then caseworkers should consider whether one of the Exclusion clauses is applicable.

### **3.13 Honour crimes**

**3.13.1** Some claimants will make an asylum or human rights claim due to ill treatment amounting to persecution at the hands of non-state agents on the basis of allegedly bringing the honour of the family into disrepute.

**3.13.2** Treatment UNHCR's Eligibility Guidelines of May 2012 noted that so-called "honour crimes" - that is, violence committed by family members to protect the family's honour - reportedly remain of particular concern. Most frequently, women and girls and, to a lesser extent, men and boys, are killed or subjected to other types of violence such as mutilations, because they are judged to have transgressed cultural, social or religious norms bringing shame to their family. "Honour crimes" are said to occur for a variety of reasons, including adultery, loss of virginity (even by rape), refusal of an arranged marriage, attempt to marry someone against the wishes of the family or making a demand for a divorce. Even the suspicion or rumour that any of these acts have been committed can reportedly result in "honour crimes". With the emergence of mobile phones and internet, allowing young couples to communicate in secret, cases have been reported in which girls, or boys, were killed on the basis of suspicious or incriminating messages or phone calls.<sup>72</sup>

**3.13.3** For decades Iraqi women have enjoyed more freedoms than women in many other countries in the Middle East. They are generally free from the strict enforcement of dress codes or restrictions on movement, and can join political life. But conservative tribal norms still prevail and all too often girls or women are punished by relatives for what are perceived to be crimes of honour. Such cases can be difficult to document. An Iraqi Human Rights ministry report said 249 women were murdered in 2010, including for reasons of "honour crimes," without giving a

---

<sup>72</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, c) "Honour-based" Violence, 24 May 2012 <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

breakdown. Amnesty International cites the ministry as saying at least 84 women were killed in Iraq in honour killings in 2009.<sup>73</sup>

- 3.13.4** Honour killings remained a serious problem throughout all parts of the country, and some honour killings were staged to appear as suicides. The penal law permits honour considerations to mitigate sentences.<sup>74</sup>

### **Honour Crimes in Central and Southern Iraq**

- 3.13.5** The Iraqi Penal Code (Law No. 111 of 1969) contains provisions that allow lenient punishments for 'honour killings' on the grounds of provocation or if the accused had 'honourable motives'. The punishment is between 6 to 12 months imprisonment. Article 409 further provides that if a person surprises his wife or a female relative committing adultery and kills/injures one or both immediately, the punishment will not exceed three years. The law does not provide any guidance as to what 'honourable motives' are and therefore leaves the door open for wide interpretation and abuse.<sup>75</sup>

- 3.13.6** "Honour" remains as a mitigating defence to a charge of murder under the Iraqi Criminal Code. There is evidence that honour killings and honour related crimes remain a problem throughout Iraq. However, precise information on the extent of the problem is difficult to ascertain, given the fact that many such crimes are committed within the family and bonds of blood and kinship mean that many such crimes go unreported. If reported, the authorities often fail to act or to investigate.<sup>76</sup>

- 3.13.7** Women in Iraq continue to face a number of threats, notably gender-based violence. Inadequate or unimplemented legislation remains a key challenge, with "honour" still permitted by the Iraqi penal code as a mitigating factor in crimes involving violence by men against women or children.<sup>77</sup>

- 3.13.8** The police forces are tribally-based, however when it comes to issues related to honour crimes especially, there are efforts to try and break with how such cases are typically dealt with. On the other hand, there is a lot of tolerance towards the concept of honour and a widespread understanding in society of the male responsibility in preserving a family's honour.<sup>78</sup>

- 3.13.9** UNAMI also documented cases of alleged suicide in Sinjar governorate, predominantly of young people from the Yezidi community. According to preliminary information received by UNAMI the suicides may have been linked to forced marriage and family honour – but the poor economic situation of many in the Yezidi community, lack of educational and employment opportunities, and poor access to services may be contributing factors. However, it is difficult to ascertain the underlying causes, as suicides and deaths are considered a private family

---

<sup>73</sup> Reuters, "Honour killings" require tougher laws, say Iraqi women, 6 March 2012

<http://www.reuters.com/article/2012/03/06/us-iraq-women-idUSTRE82510920120306>

<sup>74</sup> US Department of State, Country Reports on, Human Rights Practices 2012; Iraq, section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204362>

<sup>75</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, c) "Honour-based" Violence, 24 May 2012 <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>76</sup> UN Assistance Mission for Iraq (UNAMI), *Report on Human Rights in Iraq: 2011*, 6.1 Honour crimes, May 2012, <http://www.refworld.org/docid/4fc726582.html>

<sup>77</sup> United Kingdom: Foreign and Commonwealth Office, *Human Rights and Democracy 2012: The 2012 Foreign & Commonwealth Office Report - Iraq*, Women's rights, 15 April

2013, <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/iraq/>

<sup>78</sup> Danish Immigration Service, Security and Human Rights in South/Central Iraq, 4.3 Women at risk of honour crimes, 10 September 2010 [http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport\\_Security\\_and\\_HR\\_in\\_South\\_Central\\_Iraq.pdf](http://www.nyidanmark.dk/NR/rdonlyres/7F24EA1B-1DC7-48AE-81C4-C097ADAB34FD/0/Rapport_Security_and_HR_in_South_Central_Iraq.pdf)

affair and there are no official statistics on the frequency. UNAMI is concerned that the real number of such deaths may be higher than those reported.<sup>79</sup> The UNHCR Eligibility Guidelines similarly report that “Yazidi traditions such as forced marriages, “honour killings” or the prohibition on marriage outside one’s caste and religion may result in serious human rights violations by a victim’s family or community. There has been a reported increase in (attempted) suicides among mainly young Yazidi women, though there are indications that at least some of these suicides may actually be disguised “honour killings”. Yazidi women who have been kidnapped or sexually assaulted by Muslims may, reportedly, face severe sanctions by the Yazidi community, including exclusion from the Yazidi religion and community. At times, mere rumours can be a sufficient basis to impose such sanctions.<sup>80</sup>

### **Honour Crimes in the Kurdistan Region of Iraq**

**3.13.10** The UNHCR’s 2012 Eligibility Guidelines noted that there is generally more information available about honour crimes in the Kurdistan Region, where the KRG has taken steps to combat the practice. Importantly, the KRG has introduced legal amendments to the Iraq Penal Code, effectively treating “honour killings” on the same level as other homicides. Despite these measures violence against women, including “honour crimes”, is reported to remain at alarmingly high levels in the Kurdistan Region. Given that “honour killings” are prohibited by law, they are allegedly often concealed as accidents or suicides in order to avoid prosecution. In other cases, women are reported to commit suicide, including by self-immolation, because they fear being killed by their families.<sup>81</sup>

**3.13.11** According to the KRG Ministry of Interior’s Directorate to Investigate Violence Against Women, during 2012 there were 82 killings or suicides of women, 273 incidents of women burned, 84 incidents of self-immolation, and more than 900 incidents of abuse, torture, or sexual violence against women in the IKR. However, NGOs believed that such statistics did not reflect the actual situation due to underreporting by fearful victims. Some women who committed self-immolation had been previously victimized, but police investigated only a small number of women’s burn cases.<sup>82</sup>

**3.13.12** Honour killings and other forms of gender-based violence remain common in Iraq. Such crimes are particularly well documented in the Kurdistan Region, whose Government and civil society are making steady progress in raising awareness of them and in bringing their perpetrators to justice. In July and August 2012, in the Kurdistan Region, there were 12 known cases of killings and suicides, 66 attempted or successful self-immolations, 192 cases of physical violence, 28 acts of sexual violence and 518 complaints of oral and other forms of abuse. The increase in the number of incidents being reported in the Kurdistan Region may indicate growing confidence among women there that they can speak out against such violence and seek protection.<sup>83</sup> In his March 2013 report, the UN Secretary-General stated that “According to statistics from the Kurdistan Region general

<sup>79</sup> UN Assistance Mission for Iraq (UNAMI), *Report on Human Rights in Iraq: 2011*, 6.1 Honour crimes, May 2012, <http://www.refworld.org/docid/4fc726582.html>

<sup>80</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, vi. Yazidis, 24 May 2012, <http://www.refworld.org/pdfid/4fc77d522.pdf>

<sup>81</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, c) “Honour-based” Violence, 24 May 2012 <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>82</sup> US Department of State, Country Reports on Human Rights Practices 2012, Iraq, section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dld=204362>

<sup>83</sup> UN Security Council, *First report of the Secretary-General pursuant to resolution 2061 (2012)*, paragraph 39, 16 November 2012, <http://www.refworld.org/docid/50f51abd2.html>

directorates responsible for following up on violence against women, there were 20 cases of killing and suicide in November and December [2012], 33 cases of burning and attempts to burn and 634 complaints of verbal and other forms of harassment recorded in the Region".<sup>84</sup>

**3.13.13** The UNHCR Eligibility Guidelines state that 'Honour crimes' are "reported to be frequently committed with impunity, given the high level of social acceptance of this type of crime, including among law enforcement officials". Women at risk are unlikely to report to the police as they fear retribution and want to avoid bringing further shame to the family. "Women at risk of 'honour crimes' at the hands of their family are extremely vulnerable as they have lost "the primary source of protection and support".<sup>85</sup>

**3.13.14** In relation to shelters and other services, UNHCR notes that women's options are "very limited". According to UNHCR, "In the Kurdistan Region, local authorities and NGOs have established several shelters with limited capacity. While these shelters can, for a limited time, provide physical protection as well as social, legal and psychological counselling, they generally do not offer a durable solution. [...] In the central and southern governorates, there are no official shelters, although some women's organizations provide victims with temporary shelter in hidden locations. Such arrangements are, however, not to be considered an effective form of protection".<sup>86</sup>

**3.13.15** UNHCR finds that women in specific circumstances such as "'honour crimes" are likely to be in need of international refugee protection on the basis of their membership of a particular social group, religion and/or (imputed) political opinion".<sup>87</sup>

**See also:** [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

**3.13.16 Conclusion.** Women fearing 'honour killing' or 'honour crimes' in either central or southern Iraq or in the Kurdistan Region of Iraq are unlikely to be able to access effective protection. Each case must be considered on its own merits to assess whether internal relocation would be possible for the particular profile of claimant, but in general an internal relocation alternative is unlikely to be available for lone women.

**3.13.17** There might be cases where men are at risk of honour crimes for committing certain acts which have brought shame on their family. Effective protection is unlikely to be available and, if in such a case internal relocation is considered unduly harsh, then Humanitarian Protection will be appropriate.

---

<sup>84</sup> UN Security Council, Second report of the Secretary-General pursuant to paragraph 6 of resolution 2061 (2012) Paragraph 44, 12 March 2013, [http://www.ecoi.net/file\\_upload/1226\\_1363786661\\_n1325352iraq.pdf](http://www.ecoi.net/file_upload/1226_1363786661_n1325352iraq.pdf)

<sup>85</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, c) "Honour-based" Violence, 24 May 2012, <http://www.refworld.org/pdfid/4fc77d522.pdf>

<sup>86</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, c) "Honour-based" Violence, 24 May 2012, <http://www.refworld.org/pdfid/4fc77d522.pdf>

<sup>87</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 7. Women with Specific Profiles or in Specific Circumstances, 24 May 2012, <http://www.refworld.org/pdfid/4fc77d522.pdf>



### **3.14 Christians, including Converts and other religious minorities**

- 3.14.1** Some claimants will make an asylum or human rights claim due to a fear of ill treatment amounting to persecution at the hands of Islamic fundamentalists because they are Christian or because they come from other religious minorities (e.g. Sabaaen-Mandaeans, Yazidis, Kaka'i, Faili Kurds, Jews Shabaks and Ba'hais).
- 3.14.2** The constitution provides for religious freedom and the government generally respected religious freedom in practice. The trend in the government's respect for religious freedom did not change significantly during 2012. The constitution recognises Islam as the official religion, mandates that Islam be considered a source of legislation, and states that no law may be enacted that contradicts the established provisions of Islam. However, it also states that no law may contradict principles of democracy or the rights and basic freedoms stipulated in the constitution. The constitution guarantees freedom from intellectual, political, and religious coercion. Some apparent contradictions between the constitution and other legal provisions were tested in court during the year; the courts upheld full legal protection for religious freedom in those cases. Other contradictions remain untested.<sup>88</sup>
- 3.14.3** Officials sometimes misused their authority to limit freedom for religious groups other than their own. However, the government continued to call for tolerance and acceptance of all religious minorities, provided security for places of worship such as churches, mosques, shrines, and religious pilgrimage sites and routes, and funded the construction and renovation of places of worship for some religious minorities. Al-Qaeda in Iraq (AQI) and other terrorist and illegally armed groups committed violent attacks that restricted the ability of all believers to practice their religion.<sup>89</sup>
- 3.14.4** Government laws and regulations prevent the conversion of Muslims to other religions, require conversion of minor children to Islam if either parent converts to Islam, outlaw the practice of some faiths, and override religious tenets of individuals adhering to non-Muslim faiths. The country's civil and penal codes do not contain legal remedies or penalties for conversion from Islam.<sup>90</sup>
- 3.14.5** There were reports of societal abuses and discrimination based on religious affiliation, belief, or practice. Sectarian violence occurred throughout the country, although to a lesser extent in the Iraqi Kurdistan Region (IKR), and restricted religious freedom. No reliable statistics on religiously motivated violence were available. The overwhelming majority of mass casualty terrorist attacks targeted Muslims. A combination of sectarian hiring practices, corruption, targeted attacks, and the uneven application of the law had a detrimental economic effect on minority non-Muslim communities, and contributed to the departure of non-Muslims from the country.<sup>91</sup>

---

<sup>88</sup> US Department of State, International Religious Freedom Report for 2012, Iraq, Executive Summary 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

<sup>89</sup> US Department of State, International Religious Freedom Report 2012, Iraq, Executive Summary 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

<sup>90</sup> US Department of State, International Religious Freedom Report 2012, Iraq, Section II. Status of Government Respect for Religious Freedom, Legal/Policy Framework, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

<sup>91</sup> US Department of State, International Religious Freedom Report 2012, Iraq, Executive Summary 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

- 3.14.6** The situation for Iraq's ethnic and religious minority groups remained precarious. Minority Rights Group International ranked Iraq as the fourth most dangerous country in the world for minorities in their 2012 list of "Peoples Under Threat". A proliferation of extremist and militant groups seeking to destabilise Iraq, insufficient security and poor application of the rule of law all contributed to the violence against minority communities. The UK Foreign and Commonwealth Office was "particularly troubled by reports in September of violent raids by government of Iraq forces on Christian and Yezidi social clubs in Baghdad, reportedly for selling alcohol."<sup>92</sup>
- 3.14.7** Many of those trying to escape ongoing ethnic and religious persecution in Iraq seek refuge in the northern provinces of the Kurdistan region. An estimated 80,000 families of various ethnicities and religions have fled there, including approximately 20,000 Christian families from Baghdad and Mosul. Some have found a temporary safe haven in the cities of Duhuk and Erbil; others are living in the Nineveh Plains as internally displaced persons.<sup>93</sup>
- 3.14.8** Although the government has taken steps to help stem the violence by measures such as increasing security at minority places of worship and publicly condemning attacks, minority communities continue to live in fear. Minority Rights Group noted in September 2013 that "The fact that minority communities do not have the protection of militias makes them more vulnerable to kidnapping for ransom; nor do they get the necessary protection from the authorities".<sup>94</sup> UNHCR, in its 2012 Eligibility Guidelines, considers that "depending on the particular circumstances of the case, members of minority religious groups in central and southern Iraq are likely to be in need of international refugee protection on the grounds of religion, (imputed) political opinion or membership in a particular social group".<sup>95</sup>

#### **Situation for Christians in Central and Southern Iraq**

- 3.14.9** There is a long history of Christians living in Iraqi cities such as Baghdad and Mosul. Christians have lived here for two millennia but are currently on the verge of extinction according to the website Open Doors UK. Sharia is the primary source of law and makes it impossible to apply freedom of belief.<sup>96</sup>
- 3.14.10** Large numbers of Christians have fled abroad or to the (until recently) relatively safer northern Kurdish region where they face problems such as unemployment and inadequate schooling, medical care and housing. The situation in Kurdistan used to be better than in the areas around Baghdad or Mosul. However, the situation there is now rapidly deteriorating; Christian businesses were attacked in December 2011.<sup>97</sup>
- 3.14.11** The US Department of State religious freedom report covering 2012 states that

---

<sup>92</sup> UK Foreign and Commonwealth Office, Human Rights and Democracy 2012: The 2012 Foreign & Commonwealth Office Report, Freedom of religion or belief, April 2013, <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/iraq/>

<sup>93</sup> UK Foreign and Commonwealth Office, Human Rights and Democracy 2012: The 2012 Foreign & Commonwealth Office Report, Freedom of religion or belief, April 2013, <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/iraq/>

<sup>94</sup> Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2013: Middle East and North Africa, Iraq, 24 September 2013, [http://www.ecoi.net/file\\_upload/1226\\_1380799052\\_middle-east-and-north-africa.pdf](http://www.ecoi.net/file_upload/1226_1380799052_middle-east-and-north-africa.pdf)

<sup>95</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, b) Members of Religious Minorities, 24 May 2012, <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>96</sup> Open Doors, Iraq Country profile, undated, <http://www.opendoorsuk.org/resources/worldwatch/iraq.php>

<sup>97</sup> Open Doors, Iraq Country profile, undated, <http://www.opendoorsuk.org/resources/worldwatch/iraq.php>

“Christian leaders estimate there are between 400,000 and 850,000 Christians”.<sup>98</sup> Approximately two-thirds of the Christians in Iraq are Chaldeans (an eastern rite of the Catholic Church), nearly one-fifth are Assyrians (Church of the East), and the remainder are Syriacs (Eastern Orthodox), Armenians (Roman Catholic and Eastern Orthodox), Anglicans, and other Protestants. Evangelical Christians reportedly number approximately 5,000.<sup>99</sup>

**3.14.12** Structural uncertainty, conflict and instability are on the rise since US troops started to withdraw at the end of 2011. The church faces many challenges – members succumbing to pressure, fleeing or being killed or abducted and a lack of capable leaders. The situation is worst in the middle and south of the country where traditional Christians are suffering as much as Muslim-background believers and possibly encounter more violence as a result of their visibility. There is a lot of fear among Christians in the country, ever since the bloody attack against Christians during a church service in Baghdad two years ago. Many Christians have been attacked in church during 2011 and 2012 as well.<sup>100</sup>

**3.14.13** Violent attacks on members of the Christian community have tended to occur in waves. About 10,000 Christians in northern Iraq, fearing bombings and intimidation, fled the areas near Kirkuk during October-December 2009. On October 31, 2010, a major attack on Christians occurred when a church in Baghdad (Sayidat al-Najat Church) was besieged by militants and as many as 60 worshippers were killed. Partly as a result, Christian celebrations of Christmas 2010 were said to be subdued—following three years in which Christians had felt confident enough to celebrate that holiday openly. Several other attacks appearing to target Iraqi Christians have taken place since. Some Iraqi Christians blame the various attacks on them on Al Qaeda in Iraq, which is still somewhat strong in Nineveh Province and which associates Christians with the United States. Some human rights groups allege that it is the Kurds who are committing abuses against Christians and other minorities in the Nineveh Plains, close to the KRG-controlled region. Kurdish leaders deny the allegations.<sup>101</sup>

**3.14.14** The 2012 UNHCR Eligibility Guidelines report that “In 2011 and early 2012, Christians reportedly continued to be subjected to threats, kidnappings, attacks on their homes and assassination. Christians have also been kidnapped against ransom; however, even in criminal cases, consideration should be given to the victim’s presumed vulnerability as a member of a religious minority or his/her (perceived) social status. In 2011, churches were repeatedly subject to (attempted) bombings, often coordinated, including in Baghdad, Mosul and Kirkuk. Extremist groups have also targeted Christians for being associated with the sale of alcohol”.<sup>102</sup>

**3.14.15** In recent years many Iraqis, Muslim and non-Muslim alike, have been victimized by religiously motivated violence, but those from the country’s smallest, non-Muslim religious minorities have been particularly vulnerable. They lack militia or tribal structures to defend themselves against attacks, and they have not received

---

<sup>98</sup> US Department of State, International Religious Freedom Report for 2012, Iraq, Section I. Religious Demography, 20 May 2013,

<http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

<sup>99</sup> US Department of State, International Religious Freedom Report for 2012, Iraq, 20 May 2013

<http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

<sup>100</sup> Open Doors, Iraq Country profile, undated, <http://www.opendoorsuk.org/resources/worldwatch/iraq.php>

<sup>101</sup> US Congressional Research Service, Iraq: Politics, Governance, and Human Rights, Religious Freedom/Situation of Religious Minorities, 22 August 2013, <http://www.fas.org/sqp/crs/mideast/RS21968.pdf>

<sup>102</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, iv. Christians, including converts <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

adequate official protection or justice. For these reasons half or more of the pre-2003 Iraqi Christian community is believed to have left the country. In 2003, there were thought to be 800,000 to 1.4 million Chaldean Catholics, Assyrian Orthodox, Assyrian Church of the East members, Syriac Catholics and Orthodox, Armenian Catholics and Orthodox, Protestants, and Evangelicals in Iraq. In 2012, community leaders estimated the number of Christians to be around 500,000. Christian, Mandaean, and Yezidi organizations continued to report individual cases of violence against community members during 2012.<sup>103</sup>

**3.14.16** The 16 September 2012 bombing of the Chaldean Christian Sacred Heart Cathedral in Kirkuk resulted in no injuries but damaged the building extensively, rendering it unusable. A local human rights organization reported four attacks on Christian churches, including the attack on Sacred Heart Cathedral, during the year. Many worshippers reportedly did not attend religious services or participate in religious events because of the threat of violence, despite the government's continued provision of additional security to holy sites and funding for repairs.<sup>104</sup>

**3.14.17** Members of minority religious groups in both Sunni- and Shia-dominated neighborhoods reported receiving anonymous death threats demanding they leave their homes. Christian, Yezidi, and Shabak leaders reported their communities continued to be targets of harassment and violence. Some Muslims targeted shopkeepers for providing goods or services considered inconsistent with Islam, and sometimes subjected them to violence after they did not comply with warnings to stop such activity.<sup>105</sup> In March 2013, Agence France-Presse reported that according to the Iraq-based Hammurabi Organisation for Human Rights (HOHR), "between 2003 and May 2012, some 900 Christians were killed, while 200 were kidnapped, tortured and ultimately released for exorbitant ransoms". According to the same organisation "around 325,000 Christians have left their homes for other areas of Iraq" whilst the Patriarch of the Chaldean Catholic Church was reported as stating that "There were 300 churches in Iraq, and now there are only 57 left".<sup>106</sup>

**3.14.18** In May 2013, BBC News reported that "a row of alcohol shops [...] was attacked by gunmen. Ten Christians working in the shops were killed, while customers were allowed to leave unharmed".<sup>107</sup> At the end of September 2013, a suicide bomber blew up a vehicle near the home of a Christian MP in Kirkuk, wounding 47 people including three of the lawmaker's children.<sup>108</sup>

## Converts

**3.14.19** The 2012 UNHCR Eligibility Guidelines note that the Constitution of Iraq requires

---

<sup>103</sup> United States Commission on International Religious Freedom, Annual Report 2013 - Countries of Particular Concern: Iraq, 30 April 2013,

[http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20\(2\).pdf](http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf)

<sup>104</sup> US Department of State, International Religious Freedom Report for 2012, Iraq, Section II. Status of Government Respect for Religious Freedom, Abuses by Rebel or Foreign Forces or Terrorist Organizations, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

<sup>105</sup> Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2013: Middle East and North Africa, Iraq, 24 September 2013, [http://www.ecoi.net/file\\_upload/1226\\_1380799052\\_middle-east-and-north-africa.pdf](http://www.ecoi.net/file_upload/1226_1380799052_middle-east-and-north-africa.pdf)

<sup>106</sup> Agence France-Presse, Iraqi Christians fear fate of departed Jews, 13 March 2013, <http://reliefweb.int/report/iraq/iraqi-christians-fear-fate-departed-jews>

<sup>107</sup> BBC News, Iraq crisis: Gunmen kill 12 in Baghdad brothel, 22 May 2013, <http://www.bbc.co.uk/news/world-middle-east-22627600>

<sup>108</sup> Agence France-Presse, Suicide bomber kills 12 at Sunni funeral in Iraq, 22 September 2013, <http://reliefweb.int/report/iraq/suicide-bomber-kills-12-sunni-funeral-iraq>

the Iraqi State to uphold both freedom of religion and the principles of Islam, which, according to many Islamic scholars, includes capital punishment for leaving Islam. Iraqi Penal Law does not prohibit conversion from Islam to Christianity (or any other religion); however, Iraq's Personal Status Law does not provide for the legal recognition of a change in one's religious status. Children of converts cannot be enrolled in Christian schools and are obliged to participate in mandatory Islamic religion classes in public schools. A female convert cannot marry a Christian man, as she would still be considered Muslim by law. A convert may also have his/her marriage voided as under Shari'a Law, as an "apostate" cannot marry or remain married to a Muslim and will be excluded from inheritance rights. Given widespread animosity towards converts from Islam and the general climate of religious intolerance, the conversion of a Muslim to Christianity would likely result in ostracism and/or violence at the hands of the convert's community, tribe or family. Many, including (Sunni and Shi'ite) religious and political leaders, reportedly believe that apostasy from Islam is punishable by death, or even see the killing of apostates as a religious duty.<sup>109</sup> UNHCR concludes that "Christian converts are likely to be in need of international refugee protection in the whole country, including the Kurdistan Region".<sup>110</sup>

### **Situation for other Religious Minorities in Central and Southern Iraq**

**3.14.20** There were some reports that non-Muslim minorities felt obliged to adhere to certain Islamic practices, such as wearing the hijab or fasting during Ramadan. Some Muslims threatened women and girls, regardless of their religious affiliation, for refusing to wear the hijab, for dressing in Western-style clothing, or not adhering to strict interpretations of Islamic norms governing public behavior. Numerous women, including Christians, reported opting to wear the hijab after being harassed. Two Christian female government employees reported forcible transfer to another section of their employing ministry without notice or consent because they refused to wear headscarves.<sup>111</sup>

### **Sabaeen-Mandaeans**

**3.14.21** UNHCR in its Eligibility Guidelines reports that Mandaean religion is agnostic religion with John the Baptist as a central figure and considered a prophet. Its adherents cannot marry outside the faith and they do not accept converts. Before 2003, there were an estimated 50,000 to 70,000 Mandaeans living in Iraq many of whom were well educated and worked as doctors, engineers, dentists and jewellers. After the fall of the former regime, Sunni and Shi'ite armed groups, as well as criminals, have singled out Sabaeen-Mandaeans on the basis of their religion, profession and (perceived) wealth. Some Sabaeen-Mandaeans elders, who traditionally wear long beards, have reportedly been attacked by Shi'ite militants who have mistaken them for strictly observant Sunni Arabs or Wahhabists. Sabaeen-Mandaeans are particularly vulnerable to attacks for several reasons. Unlike other groups in Iraq, the pacifist Mandaeans did not form militias to defend themselves. Further, the already small community lives mainly in scattered groups. Their disputed status as "people of the book", which under the Qur'an would provide them with a level of protection, failed to dissuade extremist

<sup>109</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, iv. Christians, including converts, <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>110</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, b) Members of Religious Minorities, <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>111</sup> US Department of State, International Religious Freedom Report 2012, Iraq, Section II. Status of Government Respect for Religious Freedom, Abuses by Rebel or Foreign Forces or Terrorist Organizations, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dld=208390>

groups from targeting them.<sup>112</sup>

**3.14.22** The UNHCR Guidelines also note that “since 2003, Sabaeen-Mandaeans have been subjected to threats, abductions and killings. There are also reports of forced conversions to Islam and some Sabaeen-Mandaeans have reportedly been killed for refusing to do so. Most religious leaders have either been killed or fled the country. Even in cases of kidnapping for ransom, the perpetrators may deliberately single out Sabaeen-Mandaeans due to their vulnerable status as a religious minority, considered “infidel”. There have been reports of kidnapped Sabaeen-Mandaeans being killed or remaining missing despite the payment of ransom. In addition to targeted violence perpetrated against Sabaeen-Mandaeans, the community has also suffered from social marginalization and religious discrimination. There are no schools in southern and central Iraq that teach children in their language, Aramaic, and children are obliged to undertake Qur’anic studies at public schools. Sabaeen-Mandaean women are pressured to observe the hijab in public in order to avoid physical and verbal abuse, although their religion does not require veiling. Reportedly, Sabaeen-Mandaean women have been pressured to marry outside their faith in contradiction with their own religious customs and have been pressured to convert to Islam”.<sup>113</sup>

**3.14.23** The Sabean Mandaeans report that almost 90 percent of their small community either has fled Iraq or been killed, leaving some 3,500 to 5,000 Mandaeans in the country, as compared to 50,000 to 60,000 in 2003. USCIRF also received reports during the course of 2012 of two Yezidis and four Mandaeans being kidnapped.<sup>114</sup> Minority Rights Group International reported in September 2013 that “In December [2012] a Sabean Mandaean goldsmith was killed in his shop south of Baghdad.”<sup>115</sup>

#### Yazidis

**3.14.24** According to Yazidi leaders, the number of Yazidis in Iraq is estimated at 550,000 to 800,000. Yazidis reside mostly in the Governorate of Ninewa (primarily in the Sinjar mountain range, the Sheikhan area and the villages of Bahzani and Bashiqa near Mosul), while a minority of around 15% live in the Kurdistan Region (Dahuk Governorate). Since 2003, Yazidis have been targeted, including by threats, public defamation campaigns and 30 assassinations. Armed Sunni groups targeted Yazidis as “infidels”, as (perceived) supporters of the US intervention and on the basis of their (perceived) Kurdish ethnicity. On 14 August 2007, they were targeted in the deadliest attack since the fall of the former regime, in which over 400 people died. In 2009 and 2010, three major attacks against Yazidis were recorded. And in 2011 and 2012, media reported several incidents in which members of the Yazidi community were kidnapped and/or killed. In addition, Yazidis are associated with the sale of alcohol, making them a likely target for Islamist groups.<sup>116</sup> Yazidi activists reported that some 30 Yazidi women and girls had been abducted and forcibly married to members of the Asayish since 2003 and their families

<sup>112</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, v. Sabaeans-Mandaeans, 24 May 2012, <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>113</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, v. Sabaeen-Mandaeans, <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>114</sup> United States Commission on International Religious Freedom, Annual Report 2013 - Countries of Particular Concern: Iraq, 30 April 2013, [http://www.uscifr.gov/images/2013%20USCIRF%20Annual%20Report%20\(2\).pdf](http://www.uscifr.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf)

<sup>115</sup> Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2013: Middle East and North Africa, Iraq, 24 September 2013, [http://www.ecoi.net/file\\_upload/1226\\_1380799052\\_middle-east-and-north-africa.pdf](http://www.ecoi.net/file_upload/1226_1380799052_middle-east-and-north-africa.pdf)

<sup>116</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, vi. Yazidis, 24 May 2012, <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

threatened with reprisals. The UNHCR Eligibility Guidelines also notes that “There are reports that Yazidis face difficulties when entering the Kurdistan Region and are required to obtain KRG approval to find jobs in areas within Ninewa Province administered by the KRG”.<sup>117</sup>

- 3.14.25** In August 2012, nine Yazidis were killed in separate gun and bomb attacks in Nineveh governorate. In September, five Yazidis were stopped by unidentified men, and two were killed, while driving from Sheberqasim Temple in Karsi village to Sinjar city. In October 2012, Kurdish security forces arrested a Yazidi leader, Khoudeida Ibrahim Fendi, and detained him for about a week; community members say he was arrested because of his advocacy for Yazidi rights.<sup>118</sup>
- 3.14.26** UNAMI reported that it continues to monitor cases of “a number of Yazidi leaders who were detained in the KRG Asayish headquarters in Ninewa governorate.”<sup>119</sup> The FCO reported that on 14 May 2013, members of the Yazidi community in Baghdad were attacked, “which left at least 12 people dead.”<sup>120</sup> Minority Rights Group International noted in September 2013 that a local human rights organization reported “2 killings and 4 kidnappings against Yazidis”.<sup>121</sup> On 18 October 2013, Agence France-Presse reported that a mother and her three sons, all members of the Yazidi religious sect, were shot dead by militants at their home in Sinjar, west of the northern city of Mosul.<sup>122</sup>

## Baha’i

- 3.14.27** The Baha’i faith, which is estimated to have only 2,000 adherents in Iraq, remains banned under a 1970 law.<sup>123</sup>
- 3.14.28** Iraq’s Baha’is, estimated to number only 2,000 individuals spread across the country, continue to suffer from legal discrimination as their faith remains banned under Iraqi law despite constitutional provisions guaranteeing religious freedom. The relevant legislation, Law No. 105 of 1970, has neither been repealed nor invalidated, as no court challenges have been brought against it. Regulation 358 of 1975, which prohibited the issuance of the Iraq national identity card to members of Baha’i faith, was cancelled in April 2007 by the Ministry of Interior. As a result, a small number of Baha’is were issued identity cards. However, the Ministry of the Interior/Nationality and Passport Section stopped issuance of identity cards after only a short period, claiming that Baha’is had been registered as “Muslims” since 1975 and citing a government regulation preventing the conversion of Muslims to another faith. Without identity cards, Baha’is experience

<sup>117</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 24 May 2012, vi. Yazidis, <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>118</sup> United States Commission on International Religious Freedom, *Annual Report 2013 - Countries of Particular Concern: Iraq*, 30 April 2013, [http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20\(2\).pdf](http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf)

<sup>119</sup> UNAMI/OHCHR, Report on Human Rights in Iraq: July – December 2012, 7. Rights of Ethnic and Religious Groups, June 2013, [http://www.ecoi.net/file\\_upload/1226\\_1372841203\\_hro-july-december2012report.pdf](http://www.ecoi.net/file_upload/1226_1372841203_hro-july-december2012report.pdf)

<sup>120</sup> UK Foreign & Commonwealth Office, Country Updates: Iraq, Update: 30 June 2013, <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/iraq/quarterly-updates-iraq/?showall=1>

<sup>121</sup> Minority Rights Group International, State of the World’s Minorities and Indigenous Peoples 2013: Middle East and North Africa, Iraq, 24 September 2013, [http://www.ecoi.net/file\\_upload/1226\\_1380799052\\_middle-east-and-north-africa.pdf](http://www.ecoi.net/file_upload/1226_1380799052_middle-east-and-north-africa.pdf)

<sup>122</sup> Agence France-Presse, Iraq violence including Baghdad car bomb kills 19, 18 October 2013, <http://reliefweb.int/report/iraq/iraq-violence-including-baghdad-car-bomb-kills-19>

<sup>123</sup> United States Commission on International Religious Freedom, *Annual Report 2013 - Countries of Particular Concern: Iraq*, 30 April 2013, [http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20\(2\).pdf](http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf)

difficulties registering their children for school, accessing services and rights, and applying for passports.<sup>124</sup>

## Shabaks

**3.14.29** According to a 2010 Minority Rights Group report, Shabaks have lived mainly in the Nineveh plains, on a strip of land between the Tigris and Khazir, since 1502. A small population of Shabak people also lives in Mosul. They number between 200,000 and 500,000. They are culturally distinct from Kurds and Arabs, have their own traditions, and speak a language that is a mix of Arabic, Farsi, Kurdish and Turkish. About 70 per cent are Shi'a Muslim; the rest are Sunni. The Shabak people have been recognised as a distinct ethnic group in Iraq since 1952.<sup>125</sup> Kurdish authorities have refused to recognize them as an ethnic minority, and consider them as a community of Kurdish ethnicity, an issue over which Shabak themselves are divided. Their status and lands are disputed by both Kurds and Arabs wishing to extend land claims into the Nineveh governorate. Like other minorities in this position, Shabaks are suffering targeted persecution and assimilation. Since 2004, Shabak groups have reported to the UN that more than 750 of their community members have perished in armed attacks.<sup>126</sup>

**3.14.30** The 2012 UNHCR Guidelines stated that Shabaks, who primarily adhere to the Shi'ite branch of Islam, may be targeted by Sunni Islamists on the basis of their religious identity as well as their ethnicity. According to Shabak representatives, 1,200 Shabak were killed in Iraq between 2003 and December 2011. Frequently, attacks against Shabak go unnoticed by the media due to the Shabak community's obscurity and lack of an influential political lobby. In recent research, a high percentage of Shabak women interviewed stated that they were hiding their religious identity in public.<sup>127</sup>

**3.14.31** Minority Rights Group International reported in September 2013 that a local human rights organization recorded "26 killings of Shabaks [...] There were other less serious attacks, as well as incidents that went unrecorded".<sup>128</sup> On 17 December 2012, a "a wave of bombings hit neighborhoods in the disputed areas and other parts of Iraq killing 25 people and wounding dozens. The bombs targeted civilians of Shabak ethnicity in al-Mouafaqiyah, a village north of Mosul, and Turkomen neighborhoods in the city of Tuz Khormato" reported the US Department of State.<sup>129</sup> On 19 August 2013, Agence France-Presse reported that gunmen killed a man from the Shabak sect outside his home in Mosul.<sup>130</sup> The FCO reported that on 14 September 2013 "at least 23 members of the Shabak community were killed following an attack on a funeral in the village of Arto Kharab

<sup>124</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, vii. Baha'is, 24 May 2012 (page 30) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>125</sup> Human Rights Watch. On Vulnerable Ground: Violence against Minority Communities in Nineveh Province's Disputed Territories, (page 18) <http://www.hrw.org/en/reports/2009/11/10/vulnerable-ground-0>

<sup>126</sup> Minority Rights Group Still Targeted: Continued Persecution of Iraq's Minorities, published June 2010 (page 7) <http://www.minorityrights.org/10042/reports/still-targeted-continued-persecution-of-iraqs-minorities.html>

<sup>127</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 6. Individuals with Ethnicity-based Claims, 24 May 2012, <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>128</sup> Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2013: Middle East and North Africa, Iraq, 24 September 2013, [http://www.ecoi.net/file\\_upload/1226\\_1380799052\\_middle-east-and-north-africa.pdf](http://www.ecoi.net/file_upload/1226_1380799052_middle-east-and-north-africa.pdf)

<sup>129</sup> US Department of State, Country Report on Terrorism 2012 - Chapter 2 – Iraq, 30 May 2013, <http://www.state.gov/j/ct/rls/crt/2012/209982.htm>

<sup>130</sup> Agence France-Presse, Six killed in north Iraq attacks, 18 August 2013, <http://reliefweb.int/report/iraq/six-killed-north-iraq-attacks>



near Mosul".<sup>131</sup> On 18 October 2013, the BBC reported that a suicide bomb in Mwafaqiya, a village inhabited by the Shabaks near Mosul, killed at least 15.<sup>132</sup>

### Kaka'i

**3.14.32** According to a 2010 Minority Rights Group report, Kaka'i, also known as Yarsan and Ahl-e Haqq ("People of the Truth"), are followers of a monotheistic religion founded in the 14th century in western Iran. Most followers live in Iran while an estimated 200,000 Kaka'i live in Iraq, mostly in a group of villages around the town of Daquq, southeast of Kirkuk city. In Iraq, Kaka'i are mostly ethnic Kurds who speak Macho, a Gorani dialect, but also Sorani Kurdish, Turkmen and Arabic. In the towns of Mandali, Ba'quba and Khanaqeen in Diyala Governorate, they speak only Arabic. They do not observe Muslim rites and rituals. Kaka'i are secretive about their faith, which reportedly contains elements of Zoroastrianism and Shi'ism. Reportedly, Kaka'i religious and community leaders increasingly maintain that it is a form of Shi'ism. Since 2003, armed groups have subjected Kaka'i to threats, kidnapping and assassinations. Further, Muslim religious leaders in Kirkuk have allegedly told their followers not to purchase anything from "infidel" Kaka'i shop owners. For fear of persecution, Kaka'i reportedly hide their identity in public.<sup>133</sup> An article by Inter Press Service published in September 2013 highlights the destruction of 13 houses in one village, Ali Saray – 190km north of Baghdad, during 2013 by militant groups.<sup>134</sup>

### Faili Kurds

**3.14.33** According to a 2010 Minority Rights Group report, Faili Kurds are Shi'a Muslims by religion (Kurds are predominantly Sunni) and have lived in Iraq since the days of the Ottoman Empire. They inhabit the land along the Iran/Iraq border in the Zagros Mountains, as well as parts of Baghdad. Faili Kurds were previously merchants and businesspeople active in politics and civil society, and founded the Baghdad Chamber of Commerce in the 1960s. Under the Ba'ath regime, they were specifically targeted and stripped of their Iraqi citizenship, and many were expelled to Iran on the charge that their Shi'a faith made them 'Iranian'. According to UNHCR, at the beginning of 2003, Iraqi refugees in Iran numbered more than 200,000; of 1,300 living in the city of Azna in western Iran, 65 per cent were Faili Kurds. Many of those under 20 years of age were born in the camps and have known no other home. Now, their ethnicity and religion once again make their community the target of violent human rights violations in Iraq. Due to the ethnic cleansing and dispersal they have suffered, and to their lack of citizenship rights under the Ba'ath regime, it is very difficult to gather evidence regarding how many remain and the specific ongoing violations they face.<sup>135</sup> However the 2012 UNHCR Guidelines stated that Faili Kurds, who primarily adhere to the Shi'ite branch of Islam, may be targeted by Sunni Islamists on the basis of their religious identity as well as their ethnicity.<sup>136</sup>

<sup>131</sup> UK Foreign & Commonwealth Office, Country Updates: Iraq, Last updated: 30 September 2013, <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/iraq/quarterly-updates-iraq/?showall=1>

<sup>132</sup> BBC News, Dozens die in bomb attacks in Baghdad and northern Iraq, 18 October 2013, <http://www.bbc.co.uk/news/world-24563994>

<sup>133</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, viii. Kaka'i, 24 May 2012, <http://www.unhcr.org/refworld/pdfid/4fc77d52.pdf>

<sup>134</sup> Inter Press Service, Where a Moustache Can Mean Life or Death, 7 September 2013, <http://www.ipsnews.net/2013/09/where-a-moustache-can-mean-life-or-death/>

<sup>135</sup> Minority Rights Group Still Targeted: Continued Persecution of Iraq's Minorities, published June 2010 (page 6) <http://www.minorityrights.org/10042/reports/still-targeted-continued-persecution-of-iraqs-minorities.html>

<sup>136</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for

## Jews

**3.14.34** The country's ancient and once large Jewish community is largely extinct in Iraq.<sup>137</sup>

**3.14.35** The 2012 UNHCR Eligibility Guidelines report that "After the names and biographies of the nine remaining Jews in Baghdad appeared in cables published by WikiLeaks in September 2011, the small community has faced a heightened risk of being targeted by extremist groups. Since then, one person reportedly emigrated and one died, bringing the total Jewish population to seven individuals. The US Embassy in Baghdad is reportedly working to protect or relocate those that wish to leave Iraq [...] Cables published by WikiLeaks report that most Jews conceal their identity with some reportedly converting to Islam in order to reduce the risk of being targeted".<sup>138</sup>

## Religious Freedom in the Kurdistan Regional Government Area

**3.14.36** Many of the non-Muslim minorities internally displaced by violence have gone to the north of the country, mainly to Nineveh governorate and the territory of the KRG, which is comprised of three other governorates. Northern Iraq, particularly the Nineveh Plains area of Nineveh governorate, is the historic homeland of Iraq's Christian community, and the Yezidi community is indigenous to Nineveh and the KRG governorate of Dahuk. The three KRG governorates are relatively secure, but Nineveh governorate, particularly in and around its capital Mosul, remains extremely dangerous, and control over this ethnically and religiously mixed area is disputed between the KRG and the central Iraqi government. Religious and ethnic minorities in these areas, including non-Muslims and ethnic Shabak and Turkomen, have accused Kurdish forces and officials of engaging in systematic abuses and discrimination against them to further Kurdish territorial claims. These accusations include reports of Kurdish officials interfering with minorities' voting rights; encroaching on, seizing, and refusing to return minority land; conditioning the provision of services and assistance to minority communities on support for Kurdish expansion; forcing minorities to identify themselves as either Arabs or Kurds; and impeding the formation of local minority police forces.<sup>139</sup>

**3.14.37** The KRG continued to welcome Christians from outside the IKR who moved to the region due to perceived discrimination and threats to their safety elsewhere. Armenian Church of America archbishop Vicken Aykazian said in December that the IKR "has become a safehaven for Christians, [and] the [regional] government is building churches, schools, and community centers for them," adding that "Christians today feel very comfortable [in the IKR]."<sup>140</sup>

---

Iraq, 6. Individuals with Ethnicity-based claims, 24 May 2012

<http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>137</sup> United States Commission on International Religious Freedom, Annual Report 2013 - Countries of Particular Concern: Iraq, 30 April 2013,

[http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20\(2\).pdf](http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf)

<sup>138</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, ix, Jews, 24 May 2012 (p.30) <http://www.unhcr.org/refworld/pdfid/4fc77d522.pdf>

<sup>139</sup> United States Commission on International Religious Freedom, Annual Report 2013 - Countries of Particular Concern: Iraq, 30 April 2013,

[http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20\(2\).pdf](http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf)

<sup>140</sup> US Department of State, International Religious Freedom Report 2012, Iraq, Section II. Status of Government Respect for Religious Freedom, Improvements and Positive Developments in Respect of Religious Freedom, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

**3.14.38** Shabak and some Yezidi political leaders allege that Kurdish Peshmerga and Asayish forces regularly harassed and committed abuses against their communities in the portion of Ninewa Province controlled by the KRG or contested between the government and the KRG. Other Yezidi leaders alleged that the Iraqi Security Forces harassed and committed abuses against their community in portions of Ninewa Province under the central government's authority and in disputed areas. There were allegations that both the central government and the KRG discriminated against members of minority religious groups. Many Christians reported that the central government and KRG unreasonably delayed the return of church land and land confiscated from members of their community under the former regime. The KRG denied allegations it discriminated against Christians and other minorities. Despite such allegations, many non-Muslims chose to reside in the IKR because of its reputation of offering greater security and tolerance.<sup>141</sup>

**3.14.39** Minority Rights Group International reported in September 2013 that "Violence has even reached the Iraqi Kurdistan Region, which has been safer than the rest of Iraq. Reports of sectarian violence were fewer there than elsewhere, although religious minority communities noted cases of arbitrary detention, harassment, discrimination and threats by officials of the Kurdistan Regional Government (KRG)".

**See also:** [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

**3.13.40 Conclusion.** Religious minorities are at risk of persecution in Iraq. The authorities in central and southern Iraq are generally unable to provide effective protection to Christians or other religious minorities. The Kurdistan Regional government currently allows Iraqi Christians from central and southern Iraq to settle into its three governorates. In assessing whether an Iraqi Christian or other religious minorities from Central and Southern Iraq can reasonably internally relocate to the KRI, case owners should consider all the relevant personal circumstances of the claimant in order to assess whether internal relocation would not be unduly harsh, including their age, ethnicity, financial circumstances and support network, health and gender.

**3.14.41** Christian converts are unlikely to be provided with effective protection by the central and southern Iraqi authorities or by the authorities of the Kurdistan Region of Iraq. A grant of asylum is therefore likely to be appropriate

### **3.15 Treatment of women**

**3.15.1** Some applicants may make an asylum and/or a human rights claim based on sexual or gender based violence

**3.15.2 Treatment** The constitution promises women equal rights under the law, though in practice they face various forms of legal and societal discrimination. Women are guaranteed 25 percent of the seats in the legislature, and their participation in public life has increased in recent years. While they still face serious social pressure and restrictions, women have also returned in larger numbers to jobs and universities. Women enjoy somewhat greater legal protections and social

---

<sup>141</sup> US Department of State, International Religious Freedom Report for 2012, Iraq, Section II. Status of Government Respect for Religious Freedom, Government Practices, 20 May 2013, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208390>

freedoms in the Kurdish region, but their political power is limited. Moreover, domestic abuse and so-called honour killings remain serious problems both in the Kurdish region and across the country. In July 2010, Kurdish religious leaders formally declared that female genital mutilation (FGM) was un-Islamic, but advocacy groups claim that more than 50 percent of Kurdish teenage girls are victims of FGM.

- 3.15.3** The U.S. State Department placed Iraq on the Tier 2 watch list of its 2012 Trafficking in Persons Report, noting problems including the trafficking and sexual exploitation of women and children from impoverished and displaced Iraqi families, and the abuse of foreign men and women who are recruited to work in Iraq.<sup>142</sup> The parliament passed a counter trafficking law in April that outlines government obligations and provides for prosecution of traffickers. Iraqi authorities announced the arrest of a Baghdad trafficking ringleader in September 2012, but little has been done to prosecute other people accused of trafficking, or to take measures to prevent it. Victims of trafficking continue to report having passports confiscated and being prevented from obtaining visas and new identification papers, leaving them vulnerable to arrest and unable to access health care.<sup>143</sup> The UN Secretary-General reported in July 2013 that of “particular concern are claims documented by UNAMI that women who are the victims of trafficking and enforced prostitution continue to be punished by imprisonment, notwithstanding the provisions of the Anti-Trafficking Law (No. 111 of 2012) that are intended to protect them”.<sup>144</sup>
- 3.15.4** Many Iraqi women have lost their husbands as a result of armed conflict, generalised violence, and displacement. The resulting financial hardship has made them vulnerable to trafficking for sexual exploitation and prostitution.<sup>145</sup> The US Department of State noted in 2013 that “Despite the existence of a widow stipend program through the MOLSA, confusing bureaucratic procedures and significant processing delays, compounded by illiteracy among widows and female heads of household, hindered an estimated 900,000 widows from accessing social support”.<sup>146</sup>
- 3.15.5** UNAMI documented a case in Basra where “a female Iraqi refugee who had returned to Iraq to search for her relatives was arrested twice in two different provinces, apparently only because she was an unaccompanied woman who had a relatively large sum of money in her possession. Only repeated interventions by lawyers and UN representatives secured her release two months after her initial arrest.”<sup>147</sup>
- 3.15.6** The UNHCR Eligibility Guidelines concludes that “Women without support and protection provided by their family or tribal network are particularly vulnerable to being harassed, kidnapped or sexually assaulted. In order to ensure livelihoods for themselves and their children, women without a breadwinner may be compelled to engage in prostitution, begging or marriage to elderly men, including in so-called

---

<sup>142</sup> Freedom House, Freedom in the World 2013: Iraq, 10 April 2013,

<http://www.freedomhouse.org/report/freedom-world/2013/iraq>

<sup>143</sup> Human Rights Watch, World Report 2013; Iraq, Women’s and Girls’ Rights, 31 January 2013

<http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2>

<sup>144</sup> UN Security Council, Third report of the Secretary-General pursuant to paragraph 6 of resolution 2061 (2012) Paragraph 32, 11 July 2013, [http://www.ecoi.net/file\\_upload/1226\\_1374053016\\_n1338362iraq.pdf](http://www.ecoi.net/file_upload/1226_1374053016_n1338362iraq.pdf)

<sup>145</sup> Human Rights Watch, World Report 2013; Iraq, Women’s and Girls’ Rights, 31 January 2013

<http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2>

<sup>146</sup> US Department of State, Reports on Human Rights Practices for 2012: Iraq, section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>147</sup> UNAMI/OHCHR, Report on Human Rights in Iraq: July – December 2012, 3.2 Respect for due process, June 2013, [http://www.ecoi.net/file\\_upload/1226\\_1372841203\\_hro-july-december2012report.pdf](http://www.ecoi.net/file_upload/1226_1372841203_hro-july-december2012report.pdf)

temporary or “pleasure marriages” (muta’a).<sup>148</sup>

- 3.15.7** With regards to minority women, UNHCR notes that they “are likely the most vulnerable section of Iraqi society, facing violence and discrimination from a variety of actors on account both of their gender and their religious affiliation. Minority women’s freedom of movement and freedom to express their religious identity through the way they dress has been severely restricted by ongoing threats of violence and growing religious intolerance. This, in turn, restricts their access to health services, employment and education.<sup>149</sup>
- 3.15.8** Rape and domestic violence remained pervasive problems during the 2012. The penal law criminalizes rape but allows the case to be dropped if the offender marries the victim, and does not address spousal rape but permits a maximum sentence of life imprisonment if the victim dies,. There were no reliable estimates of the incidence of rape or the effectiveness of government enforcement of the law. Due to social conventions and retribution against both the victim and perpetrator, victims of sexual crimes did not usually pursue legal remedies.<sup>150</sup>
- 3.15.9** In March 2012 a report by the UN Development Program documented cases of families of rape victims sometimes demanding that the victim marry her perpetrator in order to maintain the family’s honour, noting that in some cases when the victim refused the marriage, families asked judges to intervene and force the marriage between victim and perpetrator.<sup>151</sup>
- 3.15.10** Reporting by local and international NGOs and media indicated that domestic violence often went unreported and unpunished with abuses customarily addressed within the family and tribal structure. Harassment of legal personnel working on domestic violence cases and a lack of trained police and judicial personnel further hampered efforts to bring perpetrators to justice.<sup>152</sup>
- 3.15.11** The Ministry of Interior (MOI) has 16 Family Protection Units around the country which focused more on family reconciliation than victim protection. Hotlines were routed directly to the male commander of the unit, and the units did not follow a regular referral system to provide victims with services such as legal aid or safe shelter. The units referred women with physical injuries to hospitals as an investigation component.<sup>153</sup>
- 3.15.12** More than one out of every three women in Iraq has either experienced first-hand or had a family member who has suffered devastating violence, be it sexual assault, domestic violence, kidnapping or assault. Often, these incidents go unreported and the survivors are left with no support.<sup>154</sup>

---

<sup>148</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 7. Women with Specific Profiles or in Specific Circumstances, 24 May 2012, <http://www.refworld.org/pdfid/4fc77d522.pdf>

<sup>149</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, b) Members of Religious Minorities, 24 May 2012, <http://www.refworld.org/pdfid/4fc77d522.pdf>

<sup>150</sup> US State Department, Human Rights Report 2012: Iraq, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>151</sup> US State Department, Human Rights Report 2012: Iraq, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>152</sup> US State Department, Human Rights Report 2012: Iraq, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>153</sup> US State Department, Human Rights Report 2012: Iraq, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>154</sup> United Nations Development Programme in Iraq, Monitoring Violence against Women in Iraq, 13 April 2013, <http://reliefweb.int/report/iraq/monitoring-violence-against-women-iraq>

- 3.15.13** Domestic violence, honour killings, female genital mutilation (FGM) and human trafficking remain threats to many Iraqi women and girls.<sup>155</sup>
- 3.15.14** In 2011, nearly half of girls aged 10 to 14 were exposed to violence at least once by a family member, and nearly half of married women were exposed to at least one form of spousal violence, mostly emotional, but also physical and sexual, according to a survey by the government and the UN Population Fund (UNFPA).<sup>156</sup>
- 3.15.15** The UNHCR Eligibility Guidelines state that “Violence against women and girls has reportedly increased since 2003 and, according to most observers, continues unabated. Women and girls in Iraq are victims of societal, legal and economic discrimination, abductions and killings for political, sectarian or criminal reasons, sexual violence, forced displacement, domestic violence, ‘honour killings’ and other harmful traditional practices, as well as (sex) trafficking and forced prostitution. Iraqi women and girls are reported to face violence at the hands of a range of actors, including armed groups, members of law enforcement agencies, and their (extended) families and community.”<sup>157</sup>
- 3.15.16** Most violence against women and girls appears to be perpetrated with impunity. According to a number of reports, the main reason why victims of gender based violence refrain from reporting sexual abuse and rape, forced marriage, domestic violence and female genital mutilation (FGM) is the fear of retaliation by the perpetrator or the family/community for tainting their “honour”. Reports further indicate that women often fear that they would not receive protection from law enforcement agencies and courts, given that gender-based violence is often treated leniently while certain forms of violence, including domestic violence, trafficking and FGM are not criminalized by Iraqi law.[see para 3.15.3] As a result, UNHCR considers that “women in specific circumstances [...] including survivors or women at risk of sexual and gender-based violence, harmful traditional practices, and “honour crimes” are likely to be in need of international refugee protection on the basis of their membership of a particular social group, religion and/or (imputed) political opinion”.<sup>158</sup>

### **Treatment of women in the Kurdistan Regional Government Area**

- 3.15.17** A June 2011 KRG Family Violence Law criminalizes domestic violence, including physical and psychological abuse, threats of violence, and spousal rape. During 2012 the KRG mounted public awareness campaigns, issued directives to police; and trained judges on the provisions of the law. Provisions of the law creating a special police force to investigate cases of gender-based violence and a reconciliation committee within the judicial system was not implemented at the end of 2012. On August 10, the IKR’s COM established a Women’s Rights Monitoring Board to address women’s problems, including gender-based violence.<sup>159</sup>

---

<sup>155</sup> IRIN, Iraq 10 years on: Women yet to regain their place, 6 May 2013, <http://www.irinnews.org/printreport.aspx?reportid=97976>

<sup>156</sup> IRIN, Iraq 10 years on: Women yet to regain their place, 6 May 2013, <http://www.irinnews.org/printreport.aspx?reportid=97976>

<sup>157</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 7. Women with Specific Profiles or in Specific Circumstances, 24 May 2012, <http://www.refworld.org/pdfid/4fc77d522.pdf>

<sup>158</sup> UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers for Iraq, 7. Women with Specific Profiles or in Specific Circumstances, 24 May 2012, <http://www.refworld.org/pdfid/4fc77d522.pdf>

<sup>159</sup> US State Department, Human Rights Report 2012: Iraq, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204362>

**3.15.18** In the IKR four Ministry of Labor and Social Affairs (KMOLSA) -operated women's shelters and one private shelter provided some protection and assistance. Space was limited, and service delivery was poor, with the private shelter providing a slightly higher level of service. In areas outside the IKR, NGOs ran shelters without official approval. Some NGOs assisted victims through community mental-health workers. Other NGOs provided legal assistance to victims. NGOs played a key role in providing services to victims of domestic violence who received no assistance from the central government. Instead of utilizing legal remedies, authorities frequently attempted to mediate between women and their families so that the women could return to their homes. Other than marrying or returning to their families (which often resulted in the family or community victimizing the shelter resident again), there were few options for women housed at shelters.<sup>160</sup>

**3.15.19** In the northern autonomous Kurdistan region, 42.8 percent of women have experienced FGM, according to the 2011 Multiple Indicator Cluster Survey (MICS).<sup>161</sup> In June 2011, the KRG parliament passed the Family Violence Bill, which includes provisions criminalizing forced and child marriages; abuse of girls and women; and a total ban on FGM. Implementation of the law is poor, and dozens of girls and practitioners said that they had either undergone or performed FGM since the law was passed. The authorities took no measures to investigate these cases.<sup>162</sup>

See also: [Actors of protection](#) (section 2.2 above)

[Internal relocation](#) (section 2.3 above)

[Caselaw](#) (section 2.4 above)

**3.15.20 Conclusion.** The Upper Tribunal addressed evidence concerning women throughout Iraq (ie including the KRG) in the country guidance case of [MK](#) and found that "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". Women enjoy somewhat greater legal protections and social freedoms in the Kurdish region

**3.15.21** Since the last hearing of [MK](#) in February 2012, the evidence shows that Iraqi women continue to experience legal and social discrimination and that sexual and gender based violence is widespread.. Applicants may be able to escape persecution by internally relocating to another area of Iraq, but it needs to be noted that women, especially single women with no support network, are very likely to be subjected to destitution and vulnerable to trafficking for sexual exploitation and prostitution. The reasonableness of internal relocation must be assessed on a case by case basis taking full account of the individual circumstances of the particular claimant. Factors to be taken into account include the age, health, economic and educational status, family responsibilities and other individual circumstances of the applicant. Case workers must also consider whether the

---

<sup>160</sup> US State Department, Human Rights Report 2012: Iraq, Section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>161</sup> IRIN, Iraq 10 years on: Women yet to regain their place, 6 May 2013,

<http://www.irinnews.org/printreport.aspx?reportid=97976>

<sup>162</sup> Human Rights Watch, World Report 2013; Iraq, Women's and Girls' Rights, 31 January 2013

<http://www.hrw.org/world-report/2013/country-chapters/iraq?page=2>

woman is a convert to Christianity from Islam, or is a member of any religious minority.

### 3.16 Prison conditions

- 3.16.1** Applicants may claim that they cannot return to Iraq due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Iraq are so poor as to amount to torture or inhuman treatment or punishment.
- 3.16.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.
- 3.16.3 Consideration.** Five separate entities--the Ministries of Justice, Interior, Defence, Labour, and Social Affairs, plus the Prime Minister's Counterterrorism Service--operated prisons, detention centres, and temporary holding facilities. Conditions at some facilities were harsh and life threatening, and there were unexplained deaths, riots, hunger strikes, and escapes.<sup>163</sup>

### South and Central Iraq

- 3.16.4** Torture and other ill-treatment were common and widespread in prisons and detention centres, particularly those controlled by the Ministries of the Interior and Defence, and were committed with impunity. Methods included suspension by the limbs for long periods, beatings with cables and hosepipes, the infliction of electric shocks, breaking of limbs, partial asphyxiation with plastic bags, and sexual abuse including threats of rape. Torture was used to extract information from detainees and "confessions" that could be used as evidence against them at trial. Several detainees died in custody in circumstances suggesting that torture or other ill-treatment caused or contributed to their deaths.<sup>164</sup> Local and international human rights organizations and government officials continued to document of torture and abuse in Ministry of Interior (MOI), Ministry of Justice (MOJ), and Ministry of Defense (MOD) detention facilities, including MOI and MOJ facilities where women were held.<sup>165</sup> The FCO notes in March 2013 that there were reports (which appear to be validated by online video footage) that detainees in Nasiriyah and Baghdad Central Prison facilities, both of which are administered by the Ministry of Justice, have been subjected to torture.<sup>166</sup> Amid the climate of impunity that prevails in Iraq, many victims of torture fear that if they are identified publicly they will put themselves at risk of reprisals, including possibly renewed detention and torture.<sup>167</sup>
- 3.16.5** UNAMI continues to receive a large number of reports of mistreatment relating to abuse that takes place at the time of arrest and during the investigation phase.

<sup>163</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>164</sup> Amnesty International, Annual Report 2013: Iraq, 23 May 2013 <http://www.amnesty.org/en/region/iraq/report-2013>

<sup>165</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>166</sup> UK Foreign and Commonwealth Office, Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Country updates: Iraq, 31 March 2013

<http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/iraq/quarterly-updates-iraq/?showall=1>

<sup>167</sup> Amnesty International, Iraq: A decade of abuses, 11 March 2013, 3.3 Torture and other ill-treatment: voices of survivors. <http://www.amnesty.org/en/library/info/MDE14/001/2013/en>



Nearly all allegations concern MOI detention facilities and those run by the Counter Terrorism Directorate. Nearly all detainees and prisoners held in MOJ facilities interviewed by UNAMI alleged they had suffered abuse and mistreatment, and on occasions torture, while held during investigation in MOI-run facilities prior to their transfer to the MOJ. UNAMI also reports that reliance by the courts on confessions also contributes to a culture where torture and abuse of detainees are seen by some officials as legitimate means to secure convictions.<sup>168</sup>

**3.16.6** The FCO remains concerned by aspects of the administration of justice in Iraq, particularly allegations that women in detention in facilities administered by the Ministry of Interior have been mistreated and subjected to torture.<sup>169</sup> In October 2012, following a visit to the Women's Prison in Baghdad's al-Resafa district in September, Amnesty International reported allegations by women inmates that they had been subjected to torture, including electric shocks, beatings and sexual abuse, while being detained and under interrogation.<sup>170</sup> Amnesty International also stated that deaths in custody allegedly due to torture have been reported at detention facilities under the control of the Ministries of Interior and Defence.<sup>171</sup> On 21 November 2012, a report of the Human Rights Committee of the Council of Representatives disclosed that at least 34 detainees had died between July and September 2012 in prisons under the authority of the MOJ.<sup>172</sup>

**3.16.7** Lengthy detentions without due process and without judicial action were a systemic problem, caused by a number of factors including administrative and personnel issues, bribery, and corruption. Many detainees were held for months or years after arrest and detention, sometimes incommunicado, without access to defense counsel or without being formally charged or brought before a judge within the legally mandated period.<sup>173</sup> UNAMI also found that detainees are frequently held for prolonged periods in pre-trial detention, often without access to legal counsel, owing to lack of resources for prosecutors or courts and a reluctance to utilise bail provisions where appropriate. UNAMI also continued to receive sporadic reports that authorities at times failed to release detainees as ordered by the courts.<sup>174</sup>

**3.16.8** Some authorities at MOJ, MOI, and MOD detention facilities reported that conditions and treatment of detainees were generally poor. Overcrowding was a problem in most facilities. Many inmates lacked adequate food, water, exercise facilities, vocational training, and family visitation. Access to medical care was inconsistent. Some detention facilities did not have an on-site pharmacy or

---

<sup>168</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 3. Detention and Rule of Law [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

<sup>169</sup> UK Foreign and Commonwealth Office, Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - Country updates: Iraq, 31 March 2013 <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/iraq/quarterly-updates-iraq/?showall=1>

<sup>170</sup> Amnesty International, Iraq: A decade of abuses, 11 March 2013, 3.2 Torture and other ill-treatment: women detainees <http://www.amnesty.org/en/library/info/MDE14/001/2013/en>

<sup>171</sup> Amnesty International, Iraq: A decade of abuses, 11 March 2013, 3.4 Deaths in Detention <http://www.amnesty.org/en/library/info/MDE14/001/2013/en>

<sup>172</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 3.3 Standard of detention [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

<sup>173</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>174</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 3. Detention and Rule of Law [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

infirmaries, and authorities reported that existing pharmacies were undersupplied. Limited infrastructure or aging physical plants in some facilities compounded marginal sanitation, limited access to potable water, and poor quality food.<sup>175</sup>

- 3.16.9** Government officials and local and international human rights organisations alleged that both the government and the KRG operated secret prisons and detention facilities.<sup>176</sup>
- 3.16.10** According to the MOJ's Iraqi Corrections Service (ICS) - the only government entity with the legal authority to hold persons after conviction - the total capacity of ICS facilities was 28,360 beds for men, 770 beds for women, 110 beds for juveniles, and 63 additional beds that can be used for either women or juveniles depending on need. At the end of 2012 the ICS held 31,187 prisoners and detainees, including 1,134 women.
- 3.16.11** At the end of 2012 the total juvenile population in holding facilities and detention centres apart from the IKR was approximately 1,300. Most juvenile pretrial detainees and post-trial prisoners were held in facilities run by the Ministry of Labour and Social Affairs (MOLSA), as required by law; however, international and local NGOs reported that some juveniles were held in MOJ prisons, MOI police stations, and other MOI detention facilities..<sup>177</sup>
- 3.16.12** The ICS Internal Affairs Department monitored abuse or violations of MOJ prisoners' human rights. The ICS did not provide information about allegations of staff abuse of detainees or prisoners during the year. ICS prisons maintained visitation programs that allowed for regular visits by family members, legal counsel, and independent nongovernmental observers. Facility administrators dealt with prisoner complaints. ICS authorities reported that an internal audit program, conducted by ICS inspection teams, routinely assessed whether detention conditions were compatible with international standards, such as separate housing for men, women, juveniles, and pretrial detainees; access to potable water; access to medical care; appropriate living space; and available programming, such as recreation, religious observance, and vocational rehabilitation.<sup>178</sup>
- 3.16.13** The ICRC had access in accordance with its standard modalities to MOJ, MOI, MOD, and MOLSA prisons and detention facilities. During the year the ICRC carried out 173 visits to 85 central government detention facilities. UNAMI resumed inspections of MOJ prison facilities during the year and conducted approximately 20 monitoring visits to MOJ prisons and detention facilities.<sup>179</sup> UNAMI regrets that a similar agreement has not been reached with the MOI, which continues to deny access to detention facilities under its authority. This is of particular concern as nearly all allegations of abuse, torture and denial of due process rights concern persons held in MOI detention facilities during initial investigation and pre-trial phases, prior to their transfer to facilities under the

---

<sup>175</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>176</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>177</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>178</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>179</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

authority of the MOJ.<sup>180</sup>

- 3.16.14** Government oversight authorities, including the MOHR and the COR Human Rights Committee, reported encountering resistance when conducting visits to MOJ, MOI, and MOD detention facilities.<sup>181</sup>
- 3.16.15** The Ministries of Justice, Defence, and Interior and the counterterrorism service reported that employees at detention and prison facilities received human rights training provided by their respective ministry.<sup>182</sup>
- 3.16.16** As in previous years in 2012, many, possibly hundreds, of people were sentenced to death, swelling the number of prisoners on death row. Most were convicted on terrorism-related charges. Ramadi's Tasfirat Prison held 33 prisoners sentenced to death during the first half of the year, 27 of whom had been convicted on terrorism charges. Trials consistently failed to meet international standards of fairness; many defendants alleged that they were tortured during interrogation in pre-trial detention and forced to "confess".<sup>183</sup>
- 3.16.17** At least 129 prisoners were executed in 2012, more than in any year since executions resumed in 2005. The authorities sometimes carried out multiple executions; 34 prisoners were executed in one day in January 2012 and 21 prisoners, including three women, were executed in one day in August 2012. In September 2012 at least 18 women were reported to be on death row in a prison in the al-Kadhemiya district of Baghdad.<sup>184</sup> Amnesty International reported that 42 people were executed in October 2013 under the 2005 Anti Terrorism Law, taking the number of executions so far in 2013 to 125.<sup>185</sup>

### **Iraqi Kurdistan Region (IKR)**

- 3.16.18** Iraqi Kurdistan Region (IKR) prison and detention facilities were operated by various entities: the Kurdistan Region Government (KRG) Ministry of Interior (KMOI), the KMOLSA, as well as the party-affiliated Asayish, Parastin, and Zanyari. KRG's Ministry of Labor and Social Affairs (KMOLSA) authorities supervised all post-trial detention facilities as well as pretrial detention facilities for women and juveniles. The KMOI and the KMOLSA operated six prisons: two in each of the three provinces in the IKR, one for men and another for women and juveniles. The country's fractured penal structure complicated detention and prison operations. By law the MOJ has full authority over all detention facilities, including two prisons in the IKR, except for the MOD's military justice facilities and facilities of the KRG's Ministry of Labor and Social Affairs (KMOLSA). Uniform oversight of detention facilities was not implemented at year's end, for example, since the MOD continued to hold civilian detainees and the MOI continued to hold convicted prisoners.<sup>186</sup>

<sup>180</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 3. Detention and Rule of Law [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

<sup>181</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204362>

<sup>182</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dclid=204362>

<sup>183</sup> Amnesty International, Annual Report 2013: Iraq, 23 May 2013 <http://www.amnesty.org/en/region/iraq/report-2013>

<sup>184</sup> Amnesty International, Annual Report 2013: Iraq, 23 May 2013 <http://www.amnesty.org/en/region/iraq/report-2013>

<sup>185</sup> Amnesty International, Iraq: Dozens executed in two days amid increased violence, 10 October 2013 <http://www.amnesty.org/en/news/iraq-executions>

<sup>186</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013

- 3.16.19** In the IKR 1,632 post-trial prisoners, including 47 women, were held in KRG facilities at the end of 2012. No information on prisoners and detainees in Asayish and KRG intelligence service facilities was available.<sup>187</sup> At year's end IKR juvenile prisons held 116 pretrial detainees and 70 post-trial prisoners. Juveniles were sometimes held in the same cells as adults and rarely afforded access to education or vocational training.<sup>188</sup>
- 3.16.20** UNAMI noted in its report covering July-December 2012 that it is particularly concerned over the conditions of federal prisons in the Kurdistan Region, including poor quality food, overcrowding, lack of medical assistance, lack of clean drinking water, and extensive use of solitary confinement.<sup>189</sup> UNAMI remains concerned over significant delays in bringing accused persons to trial in the Kurdistan Region, with many persons held in pre-trial detention beyond the statutory limits and few detainees granted bail. Many detainees reported that they had no access to lawyers and had not been informed of the charges against them.<sup>190</sup> According to Amnesty International, torture and other ill-treatment of detainees continue to be reported from the semi-autonomous Kurdistan Region though on a much lesser scale than elsewhere in Iraq.<sup>191</sup> The U.S. Department of State reports that IKR Antiterrorist Law allows abusive interrogation under certain conditions, and such practices reportedly occurred in some detention facilities of the Asayish and of the intelligence services, the Kurdistan Democratic Party's (KDP) Parastin, and the Patriotic Union of Kurdistan's (PUK) Zanyari.<sup>192</sup>
- 3.16.21** In the IKR, international human rights NGOs and intergovernmental organisations generally were given access to pretrial and post-trial facilities, but occasionally they were denied access to see some individuals, usually in sensitive cases or cases involving high-level officials or well known individuals. The International Committee of the Red Cross (ICRC) conducted 86 visits to 41 places of detention under the authority of the KRG. The UNAMI Human Rights Office also conducted inspections of KRG prisons and detention facilities. From July through December, UNAMI carried out 38 visits to detention facilities and prisons and conducted 232 interviews with detainees and prisoners in the IKR.<sup>193</sup>
- 3.16.22** Access by independent organisations to the facilities of the KRG internal security and intelligence services was limited to the ICRC and the UNAMI Human Rights Office.<sup>194</sup>

---

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>187</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>188</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>189</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 3.3 Standard of detention [http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

<sup>190</sup> UNAMI, Report on Human Rights in Iraq: July-December 2012, July 2013, 3.7 Detention and the rule of law in the Kurdistan Region

[http://www.uniraq.org/index.php?option=com\\_k2&view=item&task=download&id=10\\_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&task=download&id=10_0d857ba3ca65e7b5166270592c72ea4b&Itemid=650&lang=en)

<sup>191</sup> Amnesty International, Iraq: A decade of abuses, 11 March 2013, 3.3 Torture and other ill-treatment: voices of survivors, 3.3.3 Suleimaniya, Kurdistan Region

<http://www.amnesty.org/en/library/info/MDE14/001/2013/en>

<sup>192</sup> US Department of State, Country Reports on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>193</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204362>

<sup>194</sup> US Department of State, Country Report on Human Rights Practices 2012: Iraq, Section 1c, 19 April 2013

- 3.16.23 Conclusion** Conditions in prisons and detention facilities in Central and Southern Iraq are very poor and taking into account the widespread use of torture, the high number of deaths in detention, including as a result of torture, lengthy pre-trial and incommunicado detention, the serious overcrowding and the extremely poor health facilities and sanitary conditions, particularly in MOI, MOJ and MOD prisons and detention facilities in Iraq are likely to breach the Article 3 threshold.
- 3.16.24** Due to overcrowding, poor medical facilities, extensive use of solitary confinement, lengthy pre-trial detention and the prevalence of torture and incommunicado detention in the Kurdistan Region, detention facilities may breach the Article 3 threshold in individual cases. Caseworkers should give due consideration to the individual factors of each case, including the likely length of detention, the likely type of detention facility, the individual's age, gender and state of health. However, where an applicant is able to demonstrate a real risk of detention or imprisonment on return to Iraq, and the exclusion criteria do not apply, a grant of Humanitarian Protection is likely to be appropriate.
- 3.16.25** In [HM and others \(Article 15\(c\)\) Iraq CG \[2012\] UKUT 00409\(IAC\)](#) the tribunal found 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), that if a national of Iraq 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.
- 3.16.26** Where an applicant is able to demonstrate a real risk of detention or imprisonment on return to Iraq and the applicant falls within the exclusion criteria, the applicant will not be eligible for a grant of Humanitarian Protection. If the decision maker considers that although an applicant is excluded from a grant of Humanitarian Protection s/he does face a real risk of imprisonment on return and prison conditions reach the threshold of Article 3, they should propose to grant Discretionary Leave in accordance with the provisions in the Asylum Instruction on Discretionary Leave. The proposal to grant should be referred to a Senior Caseworker.
- 4. Unaccompanied minors claiming in their own right**
- 4.1** Unaccompanied minors claiming in their own right who have not been granted asylum or HP can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.
- 4.2** At present the Home Office does not have pre-approved arrangements in place with NGOs or other organisations in Albania to provide alternative adequate reception arrangements in cases where the minor cannot be returned to their family. Those who cannot be returned should be considered for leave as an Unaccompanied Asylum Seeking Children (UASC).
- 4.3** Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to endeavour to trace the families of UASC as soon as possible after the claim for asylum is made, while ensuring that

those endeavours do not jeopardise the child's and/or their family's safety. Information on the infrastructure within Iraq which may potentially be utilised to assist in endeavouring to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).

- 4.3 Caseworkers should refer to the Asylum Instruction: [Processing an Asylum Application from a Child](#), for further information on assessing the availability of safe and adequate reception arrangements, UASC Leave and family tracing. Additional information on family tracing can be obtained from the [interim guidance](#) on Court of Appeal judgment in [KA \(Afghanistan\) & Others \[2012\] EWCA civ1014](#).

## 5. Medical treatment

- 5.1 Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR. Caseworkers should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COI Service (COIS).
- 5.2 The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of [N \(FC\) v SSHD \[2005\] UKHL31](#), it is "whether the applicant's illness has reached such a critical stage (i.e. he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.
- 5.3 That standard continues to be followed in the Upper Tribunal (UT) where, in the case of [GS and EO \(Article 3 – health cases\) India \[2012\] UKUT 00397\(IAC\)](#) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, the absence of resources through civil war or similar human agency.
- 5.4 The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR. All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return, namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.
- 5.5 Where a caseworker considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave. Caseworkers must refer to the Asylum Instruction on [Discretionary Leave](#) for the appropriate period of leave to grant.

## 6. Returns

- 6.1** There is no policy which precludes the enforced return to Iraq of failed asylum seekers who have no legal basis of stay in the United Kingdom.
- 6.2** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules.
- 6.3** Any medical conditions put forward by the person as a reason not to remove them and which have not previously been considered, must be fully investigated against the background of the latest available country of origin information and the specific facts of the case. A decision should then be made as to whether removal remains the correct course of action, in accordance with [chapter 53.8 of the Enforcement Instructions and Guidance](#).
- 6.4** Iraqi nationals may return voluntarily to any region of Iraq at any time in one of three ways. Leaving the UK:
- (a) by themselves, where the applicant makes their own arrangements to leave the UK,
  - (b) through the voluntary departure procedure, arranged through the UK Immigration service, or
  - (c) under one of the assisted voluntary return (AVR) schemes.
- 6.5** The AVR schemes are implemented on behalf of the Home Office by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Iraq. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Iraqi nationals wishing to avail themselves of this opportunity for assisted return to Iraq should be put in contact with Refugee Action Details can be found on Refugee Action's web site at: [www.choices-avr.org.uk](http://www.choices-avr.org.uk).

**Country Specific Litigation Team  
Immigration and Border Policy Directorate  
Home Office**

**31 December 2013**