International Protection Considerations with Regard to People Fleeing the Republic of Iraq

May 2019
HCR/PC/IRQ/2019/05_Rev.2.
Table of Contents

I. Executive Summary ................................................................................................................. 6
  1) Refugee Protection under the 1951 Convention Criteria and Main Categories of Claim .... 6
  2) Broader UNHCR Mandate Criteria, Regional Instruments and Complementary Forms of Protection ................................................................. 7
  3) Internal Flight or Relocation Alternative (IFA/IRA) .............................................................. 7
  4) Exclusion Considerations ....................................................................................................... 8
  5) Position on Forced Returns .................................................................................................. 9

II. Main Developments in Iraq since 2017 .................................................................................. 9
  A. Political Developments ........................................................................................................... 9
     1) May 2018 Parliamentary Elections ...................................................................................... 9
     2) September 2018 Kurdistan Parliamentary Elections ......................................................... 10
     3) October 2017 Independence Referendum ........................................................................ 11
  B. Security Situation ................................................................................................................... 12
     1) Overview ............................................................................................................................ 12
     2) Security in Areas with Continued ISIS Presence or Influence........................................... 16
     3) Security in Baghdad ........................................................................................................... 19
     4) Security in the Southern Governorates .............................................................................. 20
     5) Security in the Kurdistan Region ....................................................................................... 22
  C. Civilian Casualties ................................................................................................................ 22
  D. Forced Displacement and Returns .......................................................................................... 24
     1) Internal Displacement ........................................................................................................ 24
     2) External Displacement ....................................................................................................... 25
     3) IDP Returns ....................................................................................................................... 25
     4) Returns from Abroad ......................................................................................................... 29
  E. Human Rights Situation ......................................................................................................... 29
     1) State Actors ....................................................................................................................... 30
     2) Non-State Actors ............................................................................................................... 39
     3) The Ability and Willingness of the State to Protect Civilians from Human Rights Abuses 41
  F. Humanitarian Situation ......................................................................................................... 46
     1) Shelter ............................................................................................................................... 49
     2) Livelihoods ......................................................................................................................... 50
     3) Food Security .................................................................................................................... 52
     4) Health ............................................................................................................................... 53
     5) Education .......................................................................................................................... 54
     6) Water, Sanitation, and Electricity ....................................................................................... 56

III. Assessment of International Protection Needs of Asylum-Seekers from Iraq. 58
  A. Refugee Protection under the 1951 Convention Criteria and Main Categories of Claims ... 58
1) Persons Wrongly Suspected of Supporting ISIS ............................................................... 59
2) Persons Associated with, or Perceived as Supportive of, the Government ...................... 66
3) Persons Opposing, or Perceived to Be Opposing, the Government or those Affiliated with the Government ................................................................................................................. 70
4) Persons Opposing, or Perceived to Be Opposing, the KRG or Those Affiliated with the KRG 73
5) Members of Religious and Minority Ethnic Groups, and Persons Contravening Strict Islamic Rules.................................................................................................................................. 74
6) Journalists and other Media Professionals who Engage in Critical Reporting on Political or other Sensitive Issues................................................................. 83
7) Humanitarian Workers ....................................................................................................... 85
8) Women and Girls with Certain Profiles or in Specific Circumstances ...................... 85
9) Children with Certain Profiles or in Specific Circumstances .............................................. 96
10) Persons of Diverse Sexual Orientations and/or Gender Identities ................................. 100
11) Individuals Targeted as Part of Tribal Conflict Resolution, Including Blood Feuds ...... 106
12) Palestinian Refugees .................................................................................................... 109

B. Refugee Status under UNHCR’s Broader Mandate Criteria or Regional Instruments, or Eligibility for Complementary Forms of Protection .............................................................. 112
1) Refugee Status under UNHCR’s Broader Mandate Criteria and Regional Instruments . 113
2) Eligibility for Subsidiary Protection under the EU Qualification Directive ................. 114

C. Considerations Relating to the Application of an Internal Flight or Relocation Alternative (IFA/IRA) ............................................................................................................................. 116
1) Relevance Analysis ......................................................................................................... 117
2) Reasonableness Analysis ............................................................................................... 120
3) Internal Flight or Relocation Alternative in the KR-I ................................................... 122

D. Exclusion Considerations ................................................................................................... 126

IV. Position on Forced Returns ................................................................................................. 128
List of Abbreviations

AFP     Agence France-Presse
AP      Associated Press
AQI     Al-Qa’eda in Iraq
BBC     British Broadcasting Corporation
CEDAW   Committee on the Elimination of All Forms of Discrimination Against Women
CEIP    Carnegie Endowment for International Peace
CERAH   Geneva Centre for Education and Research in Humanitarian Action
CIVIC   Center for Civilians in Conflict
CJMB    Crescent Journal of Medical and Biological Sciences
CPJ     Committee to Protect Journalists
CRC     Committee on the Rights of the Child
CSIS    Center for Strategic and International Studies
CTC     Combating Terrorism Center at West Point
DIS     Danish Immigration Service
DTM     Displacement Tracking Matrix
DRC     Danish Refugee Council
DW      Deutsche Welle
EASO    European Asylum Support Office
ECFR    European Council on Foreign Relations
EPIC    Education for Peace in Iraq Center
ERW     Explosive Remnants of War
FAO     Food and Agriculture Organization
FGM/C   Female Genital Mutilation / Cutting
GCC     Cooperation Council for the Arab States of the Gulf
GC4HR   Gulf Centre for Human Rights
GDCVAW  General Directorate to Combat Violence Against Women
GPPI    Global Public Policy Institute
HLP     Housing, Land and Property
HRW     Human Rights Watch
IBC     Iraq Body Count
ICCP    International Covenant on Civil and Political Rights
ICG     International Crisis Group
ICP     Iraqi Communist Party
ICSSI   Iraqi Civil Society Solidarity Initiative
IDMC    Internal Displacement Monitoring Centre
IDP     Internally Displaced Person
IED     Improvised Explosive Device
IFA/IRA  Internal Flight Alternative / Internal Relocation Alternative
IFJ     International Federation of Journalists
IHL     International Humanitarian Law
IHCHR   Iraqi High Commission for Human Rights
ILGA    International Lesbian, Gay, Bisexual, Trans and Intersex Association
INSO    International NGO Safety Organisation
IOM     International Organization for Migration
IRC     International Rescue Committee
ISF     Iraqi Security Forces
ISHM    Iraq Security and Humanitarian Monitor
ISI     Islamic State in Iraq
ISIS / ISIL Islamic State of Iraq and Al-Sham (Daesh)
ISPI    Italian Institute for International Political Studies
ISW     Institute for the Study of War
I. Executive Summary

This document supersedes the May 2012 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq\(^1\) and the November 2016 UNHCR Position on Returns to Iraq.\(^2\) It is issued against a background of continuing insecurity in parts of Iraq and widespread human rights abuses. These International Protection Considerations contain information on particular profiles of persons for whom international protection needs may arise in the current context in Iraq.

These Considerations include the most up-to-date information available at the time of writing, from a wide variety of sources.\(^3\) The analysis contained in these Considerations is informed by publicly available information as well as by information collected and obtained by UNHCR in the course of its operations in Iraq, as well as by other UN agencies and partner organizations.

All claims lodged by asylum-seekers need to be considered on their own merits according to fair and efficient status determination procedures and up-to-date and relevant country of origin information. This applies whether the claims are analysed on the basis of the refugee criteria contained in the 1951 Convention Relating to the Status of Refugees (“1951 Convention”)\(^4\) and its 1967 Protocol,\(^5\) UNHCR’s mandate, regional refugee instruments, or on the basis of broader international protection criteria, including complementary forms of protection.

1) Refugee Protection under the 1951 Convention Criteria and Main Categories of Claim

UNHCR considers that individuals falling into one or more of the following risk profiles may be in need of international refugee protection, depending on the individual circumstances of the case.

1. Persons wrongly suspected of supporting the Islamic State of Iraq and Al-Sham (ISIS), including civilians perceived to be supporting ISIS; families associated with actual or perceived ISIS members; and persons providing legal services to ISIS suspects and to families associated with actual or perceived ISIS members;

2. Persons associated with, or perceived as supportive of, the Government, including government officials; civil servants; political party members; civilian police personnel; (former) members of the Iraqi Security Forces (ISF), affiliated forces and the Peshmerga; civilians suspected of cooperating with the ISF, affiliated forces or the Peshmerga; and tribal leaders and members of tribes associated or perceived to be associated with the government;

3. Persons opposing, or perceived to be opposing, the Government or those affiliated with the Government, including journalists and other media professionals; law enforcement and judicial officials engaged in combatting corrupt practices; civil society activists; and protestors;

4. Persons opposing, or perceived to be opposing, the Kurdistan Regional Government (KRG) or those affiliated with the KRG, including journalists and other media professionals; members of rival or opposition political parties; civil society activists; and protestors;

5. Members of religious and minority ethnic groups;

---


\(^3\) These International Protection Considerations are based on information available to UNHCR as of 30 April 2019, unless otherwise stated.


6. **Journalists and other media professionals**;

7. **Humanitarian workers**;

8. **Women and girls with certain profiles or in specific circumstances**, in particular women in the public sphere; women and girls without genuine family support, including widows and divorcees; survivors and those at risk of sexual violence, domestic violence, “honour”-based violence, or Female Genital Mutilation (FGM); women and girls at risk of forced and/or child marriage; and survivors and those at risk of trafficking for the purpose of sexual exploitation and forced prostitution;

9. **Children with certain profiles or in specific circumstances**, in particular children born outside of registered marriage, including those born as a result of rape and/or forced marriage; survivors and those at risk of sexual violence, domestic violence, forced and/or child marriage, or “honour crimes”; survivors and those at risk of forced and underage recruitment; trafficking; and other worst forms of child labour;

10. **Persons of diverse sexual orientations and/or gender identities**;

11. **Individuals targeted as part of tribal conflict resolution, including blood feuds**;

12. **Palestinian refugees**.

This list is not necessarily exhaustive. A claim should not automatically be considered as without merit simply because it does not fall within any of the profiles identified here. Depending on the specific circumstances of the case, family members or other members of the households of individuals found to be at risk of persecution may also be in need of international protection on the basis of their association with individuals at risk.

### 2) Broader UNHCR Mandate Criteria, Regional Instruments and Complementary Forms of Protection

The 1951 Convention forms the cornerstone of the international refugee protection regime. The criteria for refugee status in the 1951 Convention need to be interpreted in such a manner that individuals or groups of persons who meet these criteria are duly recognized and protected under that instrument. Only when an asylum-seeker is found not to meet the refugee criteria in the 1951 Convention, for example because the feared persecution is found not to be for reason of a Convention ground, or if otherwise the threshold for applying the 1951 Convention definition is not met, should broader international protection criteria as contained in UNHCR’s mandate and regional instruments be examined.

For detailed guidance on applications by Iraqis for international protection under UNHCR’s broader mandate criteria or under the regional instruments, or for forms of complementary protection, including subsidiary protection under Article 15 of the 2011 EU Qualification Directive, see Section III.B.

### 3) Internal Flight or Relocation Alternative (IFA/IRA)

UNHCR considers that an IFA/IRA is not available in areas formerly controlled by ISIS or otherwise affected by conflict in light of continued human rights violations and abuses by state and non-state actors, continued ISIS presence and ongoing anti-ISIS military operations in these areas.

UNHCR further considers that an IFA/IRA is not available in the disputed areas due to these areas’ sensitive security, political and demographic dynamics and the risk of further destabilizing the situation through population movements.\(^6\)

---

\(^6\) On the disputed areas, see below footnote 26.
For detailed guidance for the assessment of the availability of an IFA/IRA in parts of Iraq that are neither formerly controlled by ISIS or otherwise affected by conflict, nor part of the "disputed areas", please see Sections III.C.1 (relevance analysis) and III.C.2 (reasonableness analysis).

In relation to Sunni Arabs and Sunni Turkmen from formerly ISIS-held or conflict-affected areas, the assessment of the availability of an IFA/IRA in other areas of Iraq would need to consider whether the proposed area is practically, safely and legally accessible to the individual. This requirement entails an assessment of the concrete prospects of the individual being:

- Able to safely reach and be admitted to the proposed area of relocation, which entails an assessment of the individual’s ability to pass checkpoints and be admitted to the proposed area of relocation, including possible sponsorship requirements;
- Permitted to take up residency in the proposed area of relocation, which may the need for a sponsor;
- Allowed to durably remain in the proposed area of relocation.

Access and residency requirements are reportedly not always clearly defined and/or implementation can vary or be subject to changes depending mostly on the security situation. Sponsorship requirements are generally not grounded in law nor are they officially announced.

Against the background of prevailing access and residency restrictions in many parts of the country, UNHCR considers that for Sunni Arabs and Sunni Turkmen from formerly ISIS-held or conflict-affected areas an IFA/IRA is generally not relevant in areas where the authorities maintain access and residency requirements and/or where there is pressure on persons from formerly ISIS-held or conflict-affected areas to return to their areas of origin. The only exceptions would be for applicants of this profile for whom it can be established that, based on the individual circumstances of their case, they would be able to access and legally and durably remain in the proposed area of relocation.

In the specific case of the Kurdistan Region of Iraq (KR-I) as a proposed area of IFA/IRA, UNHCR considers that an IFA/IRA is generally not reasonable given the current humanitarian situation in the KR-I. The only exceptions would be for applicants for whom it can be established that, based on the individual circumstances of their case, they would have access to:

i) Adequate shelter in the proposed area of relocation in the KR-I, noting that IDP camps or informal settlements would not qualify as “adequate shelter”;
ii) Access to essential services in the proposed area of relocation in the KR-I, such as potable water and sanitation, electricity, health care and education; and
iii) Livelihood opportunities; or in the case of applicants who cannot be expected to provide for their own livelihood (for example female-headed households, elderly applicants or applicants with disabilities), proven and sustainable support to enable access to an adequate standard of living.

For detailed guidance on the availability of an IFA/IRA in the KR-I, see Section III.C.3.

4) Exclusion Considerations

In light of the serious human rights abuses and violations of IHL reported during Iraq’s long history of conflicts and repression, exclusion considerations under Article 1F of the 1951 Convention may arise in individual claims by asylum-seekers from Iraq. In the context of Iraq, careful consideration needs to be given in particular to the following profiles:

i) (Former) members of ISIS (since 2013);
ii) (Former) members of predecessor groups of ISIS, including the former Islamic State in Iraq (ISI) and the former Al-Qa’eda in Iraq (AQI) (until 2013);
iii) (Former) members of the ISF, the security/intelligence apparatus and affiliated forces (since 2003);
iv) (Former) members of the KRG armed forces and the security/intelligence apparatus (since 2003);
v) (Former) members of other non-state armed groups (since 2003);
vi) (Former) members of groups and networks engaged in organized crime (since 2003).

vii) Former members of the Iraqi military, paramilitary, police and security/intelligence services, as well as high-ranking government officials (1979-2003);
viii) Former members of armed groups opposing the former regime (1979-2003).
5) Position on Forced Returns

In light of widespread destruction and damage to homes, basic infrastructure and agricultural lands, limited access to livelihoods and basic services, the contamination of homes and lands with ERW, ongoing community tensions, including reprisals against civilians perceived to be supporting ISIS, as well as localized insecurity, UNHCR urges States to refrain from forcibly returning persons originating from areas previously controlled by ISIS or areas with a continued ISIS presence to their areas of origin. UNHCR also advises against the forcible return of these persons to other parts of Iraq if there is a risk that they may not be able to access to and/or reside in these areas, or that they will otherwise end up in a situation where they have no choice but to return to their area of origin. This guidance pertains to individuals who have been found not to be in need of international refugee protection.

II. Main Developments in Iraq since 2017

A. Political Developments

1) May 2018 Parliamentary Elections

On 12 May 2018, Iraq held its first parliamentary elections since the military defeat of ISIS in late 2017. Unlike elections in 2014 and 2010, when coalitions largely ran along communal lines, the 2018 election was reportedly characterized by intra-sectarian divisions and fragmented Shi’i, Sunni and Kurdish factions. The elections saw a turnout of 44.5 per cent, described by observers as a sign of widespread public disillusionment with the political leadership at both the central level, as well as in the Kurdistan Region of Iraq (KR-I). The final election results were ratified by the Supreme Court on 19 August 2018.

Two Shi’ite-led factions came out strongest in the elections, a coalition of parties led by Shi’ite cleric Muqtada Al-Sadr (“Al-Sairoon”); and the Iranian-backed Fatah Alliance, headed by Hadi Al-Amiri of the Badr Organization, which represents paramilitary groups associated with the mainly Shi’ite Popular Mobilization Forces (PMF). Former Prime Minister Haider Al-Abadi’s bloc came in third place. Following months of deadlock, in October 2018 Barham Saleh of the Patriotic Union of Kurdistan (PUK) was elected president of Iraq, and he in turn named independent Shia politician Adel Abdul Mahdi, a former vice president and oil minister, as prime minister.

---

7 The “Islamic State of Iraq and Al-Sham” (ISIS) (Arabic: Ad-Dawlah Al- Islāmiyyah fi Al Iraq wa Al-Sham), is also known as the “Islamic State of Iraq and the Levant” (ISIL) and proclaimed itself as “Islamic State” (IS) in June 2014. ISIS has been designated as a terrorist entity by Security Council Resolution 2170 (2014); UNSC, Security Council Resolution 2170 (2014) [on Threats to International Peace and Security Caused by Terrorist Acts by Al-Qaeda], 15 August 2014, S/RES/2170 (2014), http://www.refworld.org/docid/53f729b84.html.


11 Also known as Popular Mobilization Units (PMU). In Arabic: Hashd Al-Shaabi. See below Section II.B.1 for further information on the PMF. As the PMF have nominally been integrated into state structures, they are referred to as “affiliated forces” throughout this document.

12 Al Jazeera, Recount Shows Iraq’s Sadr Retains Election Victory, no Major Changes, 10 August 2018, https://reut.rs/2M5KqNB.

13 BBC, New Iraq President Barham Saleh Names Adel Abdul Mahdi as PM, 3 October 2018, https://bbc.in/2fOlYv4. Under an informal ethno-sectarian quota system (“muhassasa”), the president is set to be a Kurd, the prime minister a Shi’ite, and the speaker of parliament a Sunni. Ministries and government institutions are also distributed among the country’s ethnic and religious groups; Chatham House, Why Iraq’s Elections Were an Indictment of the Elite, 18 May 2018, https://bit.ly/2nbJ0z; War on the
The lack of an outright winner meant that no list was able to form a majority government and Prime Minister Mahdi struggled to complete his cabinet. In mid-February 2019, the UN Secretary-General’s Special Representative for Iraq, Jeanine Hennis-Plasschaert, described “fierce disagreements among political parties” as obstructing the government formation process and warned that further delays would have “significant repercussions” for Iraq’s stability.

Provincial council elections, having been repeatedly delayed in 2017 and 2018, are set to be held on 16 November 2019. Kirkuk Governorate, which is the subject of an ongoing dispute between the central government and KRG, has not held provincial council elections since 2005. The KR-I, which holds provincial elections independent from the rest of Iraq, has not yet set a date.

2) September 2018 Kurdistan Parliamentary Elections

Elections for the regional parliament took place in in KR-I on 30 September 2018, with the Supreme Court of Kurdistan releasing the final results on 30 October 2018. The ruling Kurdistan Democratic Party (KDP) came first, followed by the PUK, which gained less than half of the seats of the KDP. Observers noted that the modest turnout of 58 per cent was indicative of people’s lack of trust in the KRG’s political system.

On 3 December 2018, the KDP announced that Nechirvan Barzani, the KRG’s outgoing prime minister, would be their candidate for President of the KR-I. Masrour Barzani, Regional Security Council Chair and son of former President Massoud Barzani, was proposed as the party’s candidate for prime minister. It is expected that the long-established informal power-sharing arrangement between the two dominant parties, the KDP and the PUK will be extended.

"Moreover, multiple parliamentary sessions have been ‘adjourned, interrupted or boycotted’ which has delayed substantive work from taking place”: UN News, Iraq: Security Council Told ‘Despair’ Has ‘Given Way to Hope’ but Road to Stability ‘Long and Far from Easy’, 13 February 2019, https://shar.es/amoPnC.
Elections had been scheduled for late 2017, but were deferred in the aftermath of the 2017 independence referendum; see below “October 2017 Independence Referendum”.
The post of the presidency had been vacant since Massoud Barzani announced on 1 November 2017 that he would end his already-extended term as president following the September 2017 independence referendum. At the time, Nechirvan Barzani, Massoud Barzani’s nephew, in his capacity as the KRG’s Prime Minister assumed most of the powers of the suspended presidency; Reuters, Kurdish Leader Departs, Leaving Nephew Faced with Reconciliation, 1 November 2017, https://reut.rs/2lBgDGe.
On 3 April 2019, the KDP and the PUK were reported to have reached an agreement on the formation of the government. Masnour Barzani (KDP) will reportedly be appointed the next Prime Minister, Education for Peace in Iraq Center (EPIC). ISHM: March 29-April 4 2019, 4 April 2019, www.epic-usa.org/ishm201. See also, Carnegie Endowment for International Peace (CEIP), Kurdistan’s Executive Offices in Transition, 7 December 2018, https://bit.ly/2tta0k; France 24, Ruling Party Comes in First in Iraqi Kurdistan Election, 21 October 2018, http://f24.my/3rBg.T.
The KRG authorities exercise *de jure* control over the KR-I. From 2003 onwards, the KRG also held *de facto* control over parts of the “disputed territories,” with the area under *de facto* KRG control further expanding into areas abandoned by the ISF in the wake of ISIS’ expansion in the summer of 2014. On 25 September 2017, the KRG launched a controversial independence referendum in the KR-I and in the disputed areas under KRG *de facto* control, which was opposed by the central government and much of the international community. While Kurds overwhelmingly voted for independence, the referendum triggered, on 16 October 2017, a military response from the central government, as part of which it reclaimed Kirkuk and most of the other disputed areas from Kurdish parties’ control.
The referendum and its fallout are reported to have deepened political divisions in the KR-I, and resulted in a deterioration of the relationship between the central government and the KRG, which had already been strained over disagreements in relation to oil exports, budget payments and the status of the disputed areas. Furthermore, the reported lack of cooperation between the ISF and Kurdish forces in the disputed areas is reported to have led to security gaps, which permitted ISIS to reconstitute. However, since 2018, and particularly following the formation of the new government of Prime Minister Abdel-Mahdi, a rapprochement between the central government and the KRG has been reported, as demonstrated, for example, by the approval of the national budget in January 2019 (which includes payment of salaries for civil servants and Peshmerga forces in the KR-I), the conclusion of an agreement to unify customs duties on 16 January 2019, and the resumption of oil exports from Kirkuk in November 2018.

B. Security Situation

1) Overview

In 2014, Iraq experienced ISIS’ rapid expansion in northern and central Iraq, resulting in conflict, grave abuses of international human rights law, international criminal law and IHL, and massive civilian casualties. The ISF and affiliated forces as well as the Kurdish security forces, with support from local forces, achieved the complete takeover of all disputed territories in the aftermath of the Kurdish referendum of September 2017. Significant parts of these territories have remained under control of the Kurdish Peshmerga and continue to be governed as they have been since 2014; Clingendael Institute, In the Eye of the Storm – (In)stability in Western Iraq Kurdistan, 3 July 2018, https://bit.ly/2CnEesJ, p. 9. See also p. 10 of the same report with a map showing “disputed areas” that remain under control of Kurdish forces. See also, KAS, Scattered Dreams – The Independence Referendum, the Fall of Kirkuk and the Effect on Kurdish and Iraqi Politics, 16 April 2018, https://bit.ly/2EzBLVd, pp. 81; Al Jazeera, Territory Lost by Kurds in Iraq, 1 November 2018, http://aje.io/el8rx; BBC, Iraq Takes Disputed Areas as Kurds ‘Withdraw to 2014 Lines’, 18 October 2017, https://bbc.in/2STvJQ0. In areas where the government has re-established control, security actors are fragmented; see below Section II.B (“Security Situation”).

2) Security and Governance in the Disputed Territories under a Fractured GOI: The Case of Northern Diyala

In November 2018, https://bit.ly/2S9QlH9. “Contrary to widely-held views, Iraqi security and Hashd forces did not bring about a complete takeover of all disputed territories in the aftermath of the Kurdish referendum of September 2017. Significant parts of these territories have remained under control of the Kurdish Peshmerga and continue to be governed as they have been since 2014; Clingendael Institute, In the Eye of the Storm – (In)stability in Western Iraq Kurdistan, 3 July 2018, https://bit.ly/2CnEesJ, p. 9. See also p. 10 of the same report with a map showing “disputed areas” that remain under control of Kurdish forces. See also, KAS, Scattered Dreams – The Independence Referendum, the Fall of Kirkuk and the Effect on Kurdish and Iraqi Politics, 16 April 2018, https://bit.ly/2EzBLVd, pp. 81; Al Jazeera, Territory Lost by Kurds in Iraq, 1 November 2018, http://aje.io/el8rx; BBC, Iraq Takes Disputed Areas as Kurds ‘Withdraw to 2014 Lines’, 18 October 2017, https://bbc.in/2STvJQ0. In areas where the government has re-established control, security actors are fragmented; see below Section II.B (“Security Situation”).

3) Local Security Actors


4) Security and Governance in the Disputed Territories under a Fractured GOI: The Case of Northern Diyala


5) Security and Governance in the Disputed Territories under a Fractured GOI: The Case of Northern Diyala

In 2018, the government of Prime Minister Abdul-Mahdi, a rapprochement between the central government and the KRG has been reported, as demonstrated, for example, by the approval of the national budget in January 2019 (which includes payment of salaries for civil servants and Peshmerga forces in the KR-I), the conclusion of an agreement to unify customs duties on 16 January 2019, and the resumption of oil exports from Kirkuk in November 2018.

6) Security and Governance in the Disputed Territories under a Fractured GOI: The Case of Northern Diyala

In the disputed areas, the reported lack of cooperation between the ISF and Kurdish forces resulted in a deterioration of the relationship between the central government and the KRG, which had already been strained over disagreements in relation to oil exports, budget payments and the status of the disputed areas. Furthermore, the reported lack of cooperation between the ISF and Kurdish forces in the disputed areas is reported to have led to security gaps, which permitted ISIS to reconstitute. However, since 2018, and particularly following the formation of the new government of Prime Minister Abdel-Mahdi, a rapprochement between the central government and the KRG has been reported, as demonstrated, for example, by the approval of the national budget in January 2019 (which includes payment of salaries for civil servants and Peshmerga forces in the KR-I), the conclusion of an agreement to unify customs duties on 16 January 2019, and the resumption of oil exports from Kirkuk in November 2018.

7) Security and Governance in the Disputed Territories under a Fractured GOI: The Case of Northern Diyala


8) Security and Governance in the Disputed Territories under a Fractured GOI: The Case of Northern Diyala

The Kurdish security forces are the only legally recognized regional force under Article 117 of the 2005 Iraqi Constitution, which allows regions to establish their own internal security services as the “police, security forces and guards of the region”; Constitution of the Republic of Iraq, 15 October 2005, www.refworld.org/docid/454f50804.html, Article 117(1). “The Kurdish security forces are the only legally recognized regional force under Article 117 of the 2005 Iraqi Constitution, which allows regions to establish their own internal security services as the “police, security forces and guards of the region”; Constitution of the Republic of Iraq, 15 October 2005, www.refworld.org/docid/454f50804.html, Article 117(1). “The
a broad international coalition, have gradually retaken territory from ISIS, including the city of Mosul in July 2017. In December 2017, the Iraqi government declared victory over the ISIS following three years of military operations against the group.

Since then, major military operations against ISIS have largely ended with a steady decline of attacks over the course of 2018. However the beginning of 2019 reportedly saw a renewed increase in ISIS attacks. Overall, security gains are mixed, with continued insecurity particularly in formerly ISIS-held areas, where the situation is reported to remain volatile in light of the continued presence of ISIS fighters. Civilians continue to bear "the brunt of the attacks".

Security Forces, also referred to as Peshmerga, comprise a range of forces, including traditional army units, military and intelligence units, and others functioning more like local police. The Peshmerga’s level of command, control, and organization in some ways puts it closer to a state force. However, command and control fracture down to a personal commander-relationship level. Peshmerga forces also incorporated a number of minority units or brigades under their ranks, including Shabak, Kakai, Yazidi and Christian or Chaldo-Assyrian forces; Global Public Policy Institute (GPPPI), Iraq After ISIS – Sub-State Actors, Local Forces, and the Micro-Politics of Control, Map 18, https://bit.ly/2EMLqtn, pp. 23-24. Armed Conflict Location and Events Dataset (ACLED), Special Focus on Coalition Forces in the Middle East: The Global Coalition Against Daesh in Iraq and Syria, 31 July 2018, https://bit.ly/2SoYQZB.

At the height of its expansion, ISIS is reported to have controlled about one third of Iraq's territory; The Age, "Caliphate' Defeated but Jihadist Group Remains a Threat, 23 March 2019, https://bbc.in/2E2xsm3. Security in Areas with Continued ISIS Presence

At the start of the year there were 224 incidents [per month]. In March, there was an uptick to 239 incidents led by increases in Anbar, Diyala, Kirkuk and Salahaddin, before dropping to 139 the next month. Violence then increased and flattened from June to October. That started in Diyala and Kirkuk in June, then shifted to Ninewa for the rest of the summer, and then finished in Anbar, Diyala, Kirkuk and Nineva in the fall. During the last two months of the year there were some of the fewest incidents ever recorded in the country as the Islamic State largely withdrew from the battlefield; Musings on Iraq, Review of Security Trends in Iraq 2018, 15 January 2018, https://bit.ly/27L1d8m. "In Iraq alone, there were over 1,600 acts of violence perpetrated by Islamic State during 2018"; Military.com, "Islamic State 2019: An Assessment, 25 January 2019, http://bit.ly/2Dc4qJ. According to the Center for Strategic and International Studies (CSIS), ISIS was carrying out an average of 75 attacks per month in 2018, which is more than the monthly average for 2016 (60.5 attacks), but less than 2017 (89.2 attacks); CSIS, The Islamic State and the Persistent Threat of Extremism in Iraq, November 2018, https://bit.ly/2S19CqQ, p. 1. See also, Freedom House, Freedom in the World 2019 – Iraq, 4 February 2019, www.ecoi.net/en/document/2002613.html; ACLED, Ten Conflicts to Worry About in 2019, 1 February 2019, https://bit.ly/2N6ioFF; Yahoo, "Worldwide Terror Attacks Shrink to Lowest Level Since 2011, Reveals New Report from Jane’s by IHS Markit, 23 January 2019, https://bit.ly/2TTrdIA.

"As the new year began the Islamic State began picking up its attacks in Iraq. (...) The rise in 2019 was due to renewed activity in Anbar, Kirkuk, and Salahaddin"; Musings on Iraq, "Slight Uptick in Islamic State Ops in Iraq as New Year Begins, 4 February 2019, https://bit.ly/2SUlyAy.


See below "Security in Areas with Continued ISIS Presence". The UN estimated in a February 2019 report that there were between 14,000 and 18,000 ISIS fighters in Iraq and Syria, including up to 3,000 foreign fighters; UNSC, Eighth Report of the Secretary-General on the Threat Posed by ISIL (Da’esh) to International Peace and Security and the Range of United Nations Efforts in Support of Member States in Countering the Threat, S/2019/103, 1 February 2019, http://undocs.org/S/2019/103, paras 17, 18. CSIS estimated in October 2018 that ISIS had between 20,000 and 30,000 militants in Iraq and Syria, approximately half of these in Iraq; CSIS, The Islamic State and the Persistent Threat of Extremism in Iraq, November 2018, https://bit.ly/2S19CqQ, pp. 3-4. See also, BBC, "How Many IS Foreign Fighters Are Left in Iraq and Syria?", 20 February 2019, https://bbc.in/2TyqL4s.

Since 2003, Iraq has seen a proliferation of armed actors challenging the state’s monopoly on legitimate violence. The three-year conflict against ISIS, characterized by the initial near-collapse of the army and other security forces, has further empowered a vast array of armed groups, collectively known as PMF. PMF groups are reported to have played a key role in ISIS’s military and territorial defeat and enjoy popularity among Iraq’s Shi’ite population in particular.

The PMF represent dozens of highly heterogeneous armed groups with varying ideologies and allegiances. In 2016, the government institutionalized the PMF as “an independent military formation as part of the Iraqi armed forces and linked to the Commander-in-Chief.” In March 2018, the Government issued a decree which put the PMF on a par with members of military forces under Ministry of Defense control, including in terms of salary. The PMF fall administratively under the state-run PMF Commission; however, the level of integration of the PMF’s various components varies significantly and as a result they exist both as part of and outside the formal security apparatus. Following the May

---


54 Executive Order 91 of February 2016 and Law No. 40 (2016) of November 2016. Law No. 40 (2016) is available in Arabic at: ISPI, Al-Bayan Center for Planning and Studies, ICG.

55 Reuters, Iraq’s Shi’ite Militias Formally Inducted into Security Forces, 8 March 2018, https://reut.rs/2laz9MS.

2018 parliamentary elections, some PMF groups have become part of the government,^{57} while some also operate both in the formal and informal economic sector.^{58} It has been reported that different PMF factions are increasingly engaged in a competition over power and resources.^{59} Some PMF groups have been held responsible for a range of human rights abuses against alleged ISIS suspects,^{60} as well as the targeting of critics and those perceived to be contravening strict Islamic rules.^{61}

Certain political and security developments, including the 2017 independence referendum and subsequent military stand-off between the Iraqi Government and the KRG,^{62} the May 2018 parliamentary elections and subsequent slow government formation process,^{63} as well as popular protests, which resulted in the deployment of military forces to the South, are reported to have diverted some focus away from the government’s continued fight against ISIS.^{64}

Observers further note that the government’s failure to address the root causes of instability and violence, including the weak rule of law and heavy-handed counterterrorism tactics,^{65} confessional politics, tensions between the central government and the KRG, endemic corruption,^{66} and gaps in the provision of services,^{67} result in popular dissatisfaction with the government^{68} and risk a renewed strengthening of ISIS.^{69}

---

57 See Section II.A.1 (“May 2018 Parliamentary Elections”).
58 The Hashd have attained a profile in the economic sphere, too, competing with more traditional actors, such as the state, to provide reconstruction and services to citizens. They have done so particularly in areas retaken from ISIS, many of which suffered heavy destruction. (…) Beyond the formal economy, the Hashd are active in black markets and smuggling. In much of Iraq, and particularly in areas retaken from ISIS, they man checkpoints, decorating the metal posts with portraits of their ‘martyrs’ and leaders and levying fees on travelers”. ICG, Iraq’s Paramilitary Groups, 30 July 2018, https://bit.ly/2T2VUjS, pp. 8, 12. See also, Los Angeles Times, In Iraq, Iran-Affiliated Militias that Helped Rout Islamic State Wield Growing Clout, 13 February 2019, https://lat.ms/2SEKvgs; Reuters, Exclusive: Iran-Backed Groups Corner Iraq’s Postwar Scrap Metal Market – Sources, 13 February 2019, https://reut.rs/2GEINdv.
60 See Sections II.E.1.a (“Human Rights Violations by Iraqi Authorities and Affiliated Forces”) and III.A.1 (“Persons Wrongly Suspected of Supporting ISIS”).
61 “One of the justifications for according the PMF official status was to improve discipline and accountability. It has instead consolidated the power of the PMF and enabled its constituent militias to detain and assassinate critics with impunity.” And further: “In 2018 arbitrary detention, torture and summary killings committed by the PMF and by the Iraqi Security Forces and police are not confined to those violations related to the ISIS conflict, or to revenge or punishment attacks against Sunni communities, but have also targeted a wide range of civilian activists including protestors, media professionals, lawyers, women in public life, and other human rights defenders, from all communities”; Ceasefire Centre for Civil Rights / Minority Rights Group International (MRG), Civilian Activists under Threat in Iraq, December 2018, https://bit.ly/2UnHNgl, pp. 24-25. See in particular risk profiles III.A.3, 5.b, 6, 8.a and 10 (and sources therein).
62 See Section II.A.3 (“October 2017 Independence Referendum”).
64 See Section II.E.1.a (“Human Rights Violations by Iraqi Authorities and Affiliated Forces”) and III.A.1 (“Persons Wrongly Suspected of Supporting ISIS”).
65 See Section II.E.3 (“The Ability and Willingness of the State to Protect Civilians from Human Rights Abuses”).
66 Baghdad lacks the resources or institutional capacity to address longstanding economic development and basic services challenges, and it faces reconstruction costs in the aftermath of the counter-ISIS campaign, estimated by the World Bank at $88 billion”; Office of the Director of National Intelligence, Worldwide Threat Assessment of the US Intelligence Community, 29 January 2019, https://bit.ly/2Gx1MGP, p. 31. See also Section II.F (“Humanitarian Situation”).
68 “Iraq is facing an increasingly disenfranchised public. The underlying political and economic factors that facilitated the rise of ISIS persist (…)”; Office of the Director of National Intelligence, Worldwide Threat Assessment of the US Intelligence Community, 29 January 2019, https://bit.ly/2Gx1MGP, p. 31. “The Iraqi government has not addressed risk factors that contribute to instability, including the cost of reconstruction, economic stagnation, corruption, and ungoverned spaces in disputed regions across the
2) Security in Areas with Continued ISIS Presence or Influence

night in particular, ISIS is said to control many of these areas.\(^72\) ISIS maintains the capacity\(^73\) to launch hit-and-run attacks as demonstrated by targeted assassinations, including of local leaders,\(^74\) kidnappings as well as improvised explosive devices (IED) attacks targeting civilians and security forces.\(^75\) The Center for Strategic and International Studies (CSIS) noted that “despite a decrease in the total number of Islamic State attacks across Iraq, attacks against government targets have increased from 2017 to 2018.”\(^76\)

Attacks by ISIS occur predominantly in areas previously held by the group, with a reported increase in attacks in the disputed areas of Kirkuk Governorate and Khashm al-Shakhe (Diyala Governorate).\(^77\)

\(^{72}\) “The jihadists thrive in the dark, attacking check points, kidnapping civilians and security officials, ransoming some and killing others. They also plant improvised explosive devices or IEDs (...)”; PBS, After Losing most of Its Control in Iraq, ISIS Is Starting to Reemerge, 2 December 2018, https://to.pbs.org/2BLWV0s. According to Mike Knights of the Washington Institute, “You can say that almost all of Iraq has been liberated from ISIS during the day, but you can’t say that at night. (...) At night, ISIS controls a lot more territory than it does during the day. If you speak to Iraqi and coalition intelligence officials in Baghdad ... they’ll tell you that Islamic State fighters have complete freedom of maneuver at night in many areas”; The Atlantic, ISIS never Went Away in Iraq, 31 August 2018, https://bit.ly/2LMzcPw. See also, CNN, Iraq: ISIS Never Went Away In Iraq. Its Revival is Already Underway, 5 March 2019, https://cnn.it/2QDd2D; BuzzFeed, The Trump White House Says ISIS Has Been Defeated in Iraq. The Data Says Otherwise, 31 October 2018, https://bit.ly/2PKXAF1; VOA, US Military: ISIS Is Still Poses Threat in Iraq, Syria, 25 October 2018, https://bit.ly/2qa5s6X.

\(^{73}\) Between January and October 2018, Michael Knights recorded “1,271 attacks (of which 762 were explosive events, including 135 attempted mass-casualty attacks and 270 effective roadside bombings). As important, the Islamic State attempted to overrun 120 Iraqi security force checkpoints or outposts and executed 148 precise killings of specifically targeted individuals such as village mukhtars, tribal heads, district council members, or security force leaders”; CTC, The Islamic State Inside Iraq: Losing Power or Preserving Strength?, CTC Sentinel Vol. 11(11), December 2018, http://bit.ly/2GDrTu.

\(^{74}\) A particular focus of ISIS has reportedly been the assassination of village elders (“mukhtars”) and tribal leaders. According to Michael Knights of the Washington Institute, the number of mukhtars being killed was a good indicator to assess ISIS’ strength. The killing of a mukhtar “affects every single person in that village. (...) They know Isis can walk into that village, kill the most important person there and leave”; Financial Times, ISIS Returns to Insurgent Roots after Battlefield Defeats, 5 December 2018, https://on.ft.com/2677kfc; The Atlantic, ISIS never Went Away in Iraq, 31 August 2018, https://bit.ly/2LMzcPw. “In 2018, ISIS fighters captured and extrajudicially killed civilians, often targeting community leaders and Iraqi armed forces”; HRW, World Report 2019 – Iraq, 17 January 2019, www.hrw.org/en/report/2019/01/17/iraq

\(^{75}\) “Much like the insurgent tactics of Al Qaeda in Iraq (AQI), and the Islamic State in Iraq (ISI) – the Islamic State’s predecessors – Islamic State militants are seizing on local grievances, taking advantage of ungoverned space by operating from cell structures to conduct hit and run attacks, kidnappings for ransom, targeted assassinations, and bombings using improvised explosive devices”; CSIS, The Islamic State and the Persistent Threat of Extremism in Iraq, November 2018, https://bit.ly/2S19cCQ, p. 1. “Its activities have thus far been limited to small arms attacks, targeted assassinations, and suicide vests (SVESTs). ISIS is steadily scaling up the rate of these attacks, conducting as many as four assassinations per week across Northern and Central Iraq. This violence has expelled civilians from small villages in Diyala and Kirkuk Provinces”; ISW, The Islamic State and the Persistent Threat of Extremism in Iraq, November 2018, https://bit.ly/2S19cCQ, p. 1. “Its activities have thus far been limited to small arms attacks, targeted assassinations, and suicide vests (SVESTs). ISIS is steadily scaling up the rate of these attacks, conducting as many as four assassinations per week across Northern and Central Iraq. This violence has expelled civilians from small villages in Diyala and Kirkuk Provinces”; ISW, The Islamic State and the Persistent Threat of Extremism in Iraq, November 2018, https://bit.ly/2S19cCQ, p. 1. “Its activities have thus far been limited to small arms attacks, targeted assassinations, and suicide vests (SVESTs). ISIS is steadily scaling up the rate of these attacks, conducting as many as four assassinations per week across Northern and Central Iraq. This violence has expelled civilians from small villages in Diyala and Kirkuk Provinces”; ISW, The Islamic State and the Persistent Threat of Extremism in Iraq, November 2018, https://bit.ly/2S19cCQ, p. 1.


\(^{77}\) “Like Diyala, the militants have expanded into Kirkuk city after the central government took over from the Kurds. That is the only major urban area that IS has been able to consistently operate within. (...) there was a steady pattern of shoot outs with the security forces, attacks on checkpoints and mukhtars, kidnappings, and 29 towns assaulted. There were also 15 mass casualty bombings there, the most of any province during the year”; Musings on Iraq, Review of Security Trends in Iraq 2018, 15 January 2019, https://bit.ly/2TLt1Ms. “On December 13 [2018], Kurdish news site Rudaw reported that in one month alone, IS attacked villages in Iraq’s disputed Kirkuk Governorate over 143 times, forcing villagers to fleer their homes. A day later, the Iraqi Federal
These attacks not only cause civilian casualties and new displacement, but also slow down the pace of reconstruction and the return of internally displaced persons (IDPs). ISIS is also reported to attack energy infrastructure and utilities with the aim of undermining popular support for the government. Competition and/or lack of coordination among the various security actors operating in the retaken areas is reported to result in security gaps, which ISIS readily exploits.

Limited military operations against ISIS continue and security forces make frequent arrests of ISIS suspects, dismantle explosive devices, and uncover weapons caches, safe houses and underground tunnels. Persons arrested on account of their actual or perceived ISIS affiliation are reported to be at risk of human rights violations at the hands of state-affiliated security actors.

According to reports, the ISF continue to remain heavily reliant on support from the international coalition, especially with regard to intelligence gathering and analysis, as well as the PMF to secure and stabilize the retaken territory. This type of violence remains a significant threat to civilians, who are often the victims of such attacks; ACLED, Ten Conflicts to Worry About in 2019, 1 February 2019, https://bit.ly/2NcioFF. See also Section II.C (“Civilian Casualties”).

Police, amid a resurgence of IS activity, announced they had dismantled 50 improvised explosive devices (IEDs) in the Kirkuk area. These reports reflect a noticeable increase in IS attacks in the particularly vulnerable disputed regions of Kirkuk and Khanaqin over the past year”, CEIP, The Islamic State Lives On, 11 January 2019, https://bit.ly/2DYk88. “Through October 2018, Islamic State attacks in Kirkuk province have more than doubled from 2017 to 2018. Salah ad-Din province has also seen an increase in the number of attacks year over year, and Diyala province is similarly on track to see an increase in attacks from 2017 to 2018.” The number of attacks recorded in other formerly ISIS-held areas, including in Al-Anbar, Babel, Baghdad and Nineawa Governorates are reported to have dropped compared to previous years; CSIS, The Islamic State and the Persistent Threat of Extremism in Iraq, November 2018, https://bit.ly/2S19CC0, p. 4. On the reported increase in violence in Kirkuk and Salah Al-Din Governorates in early 2019, see Munisings on Iraq, Slight Uptick in Islamic State Ops in Iraq as New Year Begins, 4 February 2019, https://bit.ly/2SuJycAw.

The lack of coordination is reported to be particularly evident in the disputed areas following the withdrawal of Kurdish forces, competition and/or lack of coordination among the various security actors operating in the retaken areas is reported to result in security gaps, which ISIS readily exploits.


Los Angeles Times, Iraq’s New War Against Islamic State: Halting the Group’s Budding Rural Resurgence, 8 March 2019, https://lat.ms/2VrY3ff; New York Times, Acting U.S. Defense Secretary Makes Surprise Visit to Iraq, 12 February 2019,
areas retaken from ISIS. In many retaken areas, PMF groups are reported to compete with the ISF and the Iraqi security forces, respectively, over control and authority, and reports speak of harassment and abuse against civilians by these groups. 

3) Security in Baghdad

Along with the general security improvements in 2018 and into 2019, security in Baghdad is reported to have largely stabilized. Throughout 2018, ISIS remnants remained active in the small towns in the outer regions of the governorate (“Baghdad Belts”) and launched occasional IED attacks against civilian targets, but its capacity to stage mass casualty attacks was reported to have significantly reduced. In early 2019, ISIS was reportedly to have largely pulled out while the ISF established greater


“(…) security forces lack the capacity to patrol the entire country (apart from the Kurdish region, which has its own forces), obliging them to rely on the Hashd for help. (…) In the disputed territories, they frequently perform raids and inspections to track ISIS, and set up checkpoints to monitor the movement of people”, ICG, Iraq’s Paramilitary Groups, 30 July 2018, https://bit.ly/2T2VLrS, p. 16. "Although the Iraqi armed forces have since recovered, the state’s weakness has allowed many of these paramilitary groups to continue to control territory in liberated areas from Mosul to Kirkuk"; War on the Rocks, More than Militias: Iraq’s Popular Mobilization Forces Are here to Stay, 3 April 2018, https://bit.ly/2GE4Bq. See also, LSE, The Popular Mobilisation Forces and the Balancing of Formal and Informal, 15 March 2018, https://bit.ly/2MvDea.


"In Sunni towns, the militias have established political and recruitment offices and operate checkpoints along major roads (and even smaller interior pathways), levying taxes on truckers moving oil, household goods and food. Some militiamen have engaged in ‘mafia-like practices,’ several Iraqi and U.S. officials said, demanding protection money from both large and small businesses, while shaking down motorists at checkpoints to permit them to pass”; Washington Post, As Iraq’s Shiite Militias Expand Their Reach, Concerns about an ISIS Revival Grow, 9 January 2019, https://wapo.st/2QJwJld. "(…) different Hashd groups are reported to have engaged in illicit activities like extortion, looting and levying tariffs on goods at checkpoints”; Clingendael Institute, From Soldiers to Politicians? – Iraq’s Al-Hashd Al-Sha’abi ‘on the March’, November 2018, http://bit.ly/2UUHq7, p. 11. "In areas retaken from ISIS, locals complain that the Hashd are growing lawless and blatantly partisan. In Mosul, for example, several residents claimed that, far from providing protection, the Hashd were reaping illicit profit, whether through extortion or looting. Fighters have erected checkpoints throughout northern Iraq to levy tariffs on traders”; ICG, Iraq’s Paramilitary Groups, 30 July 2018, https://bit.ly/2T2VLrS, p. 19.


According to Musings on Iraq, in 2018 Baghdad saw an average of 33 attacks per month, the third most in the country. “Almost all the attacks are small as well such as shootings and IEDs. They also occur mostly in the towns in the outer north and south, and to a lesser degree in the west [Baghdad Belts]”; Musings on Iraq, Review of Security Trends in Iraq 2018, 15 January 2018, https://bit.ly/2TL1dMs. “In Baghdad, ISIS’s attack pattern indicates that it [ISIS] is likely reconstituting support and logistical networks throughout the Baghdad Belts, replicating its safe havens in 2006 - 2007. ISIS has not yet returned to the systematic use of vehicle-borne IEDs (VBIEDs), which were a hallmark of its resurgence in 2011 – 2013”; ISW, ISIS’s Second Resurgence, 2 October 2018, https://bit.ly/2y28pL9. See also, Xinhua, Gunmen Kill 3 in Coffee Shop Near Iraq’s Capital, 29 January 2019, https://bit.ly/2Sso8P7. In most months, Baghdad accounts for the highest number of civilian casualties; see Section II.C (“Civilian Casualties”).

control of the “Baghdad Belts”, which resulted in a further reduction in security incidents. However, by April 2019, ISIS had reportedly sought to expand its support zone in the southwestern areas of the Baghdad Belts.

While reports described near-daily kidnappings for political reasons or ransom in recent years, a decline has been reported in 2018 and into 2019. Baghdad continues to see instances of targeted assassinations of high-profile figures.

4) Security in the Southern Governorates

In late 2014, significant numbers of ISF members were deployed from the South to other parts of the country to fight ISIS. Since then, criminal gangs, militias and tribes are reported to have exploited the ensuing security vacuum. Armed robberies, kidnappings for ransom or intimidation, drug trafficking, extortion and payment of protection fees, as well as tribal feuds are reported to be a common occurrence. Feuds between tribes often involve gun violence and even the use of heavy weapons, resulting in casualties among bystanders. The use of small IEDs as an intimidation tactic mostly by tribes has also been reported. According to 2018 survey findings, many civilians in Basrah had
experienced violence in the previous year, and a majority, particularly women, considered themselves as “likely” or “somewhat likely” to become victims of violence in the near future.

In 2018, protests over corruption, government neglect, unemployment and poor services, erupted in Basrah and in other southern cities, with some protests turning violent and leading to deaths and injuries among protesters and security forces. The situation is reported to have calmed down following the reinforcement of local security and imposition of a curfew. Protest organizers also reported that they decided to suspend further protests after receiving death threats from militias. Several protest leaders and activists were reportedly assassinated in September and October 2018.

At the time of writing, protests continue, with occasional violence reported.

In Basrah, 65 per cent of households surveyed in 2018 reported having experienced at least one incident of violence in the previous year, including verbal abuse and harassment; robbery or seizure of property; forced marriage; assault with a weapon or attempted murder; beating, physical abuse or torture; killing or murder; bombing or explosives; and unlawful imprisonment or detention; PAX, Human Security Survey – Basra, September 2018, https://bit.ly/2ZQVAs1, p. 1.

Among the 2018 survey respondents, 22 per cent considered it “likely” to become a victim of violence in the next year, while 45 per cent considered it “somewhat likely”; ibid. The survey also revealed that the proportion of women fearing violence was higher at 76 per cent compared to 56 per cent of men; PAX, Human Security Survey: Basra, Iraq – 2018, Gender Security Dynamics, 31 December 2018, https://bit.ly/2ZQ7477, p. 1.


“The predominantly Shiite city is among the poorest areas of Iraq, despite the huge nearby oil reserves that drive the national economy. Although Basra has escaped the terrorist violence that has racked the country for years, its population has struggled with its own set of problems: high unemployment, crumbling infrastructure and rampant organized crime groups with leaders linked to powerful Shiite militias†. New York Times, In Strategic Iraqi City, a Week of Deadly Turmoil, 8 September 2019, https://nyti.ms/2OEN6Z. In early September 2018, violence was reported to have escalated on both sides with protesters setting fire to government offices, political party and militia headquarters, as well as the Iranian consulate; AFP, Security Forces Deploy in Iraq’s Basra Following Violence, 8 September 2018, http://bit.ly/2SLY95c; AP, 12 Dead in Basra as Rockets Fired at Airport and Iranian Consulate Torched, 8 September 2018, http://bit.ly/2RZFR2Z. Violence between July and September 2018 is reported to have left at least 20 people dead and 300 others wounded, including 52 members of the security forces, while hundreds were arrested; Office of the High Commissioner for Human Rights (OHCHR), Press Briefing Notes on Myanmar Freedom of Expression, Iraq Basra Protests and Yemen Attack, 11 September 2018, https://bit.ly/2SxHAK.


ISIS is reported to lack operational space and support in the predominantly Shi‘ite South, but has in the past years occasionally launched, or attempted to launch, mass casualty attacks, particularly during religious celebrations.\textsuperscript{112}

\section*{5) Security in the Kurdistan Region}

The security situation in the KR-I remains relatively stable, although the risk of ISIS attacks persists.\textsuperscript{113} However, security forces are vigilant in light of the reported presence of homegrown sleeper cells of ISIS and other armed groups, as well as ISIS operations in neighbouring Kirkuk and Diyala Governorates.\textsuperscript{114} ISIS remnants are also reported to operate along the Iraqi-Iranian border, from where they have staged attacks in Iran.\textsuperscript{115}

Discontent over corruption and worsening economic conditions, particularly the delays in payment of and cuts to salaries of state employees, are reported to have resulted in popular protests in Erbil and Sulaymaniyah in late 2017 and in March 2018. Some protests reportedly turned violent, and human rights organizations expressed concern over the treatment of protestors and journalists covering the protests.\textsuperscript{116}

Turkish airstrikes against alleged Kurdistan Workers Party (PKK) positions in parts of the KR-I are reported to regularly cause casualties among fighters and civilians as well as damage to properties.\textsuperscript{117}

\section*{C. Civilian Casualties}

While exact figures are not available, by all accounts tens of thousands of civilians have been killed between 2014 and 2017 as a result of the conflict between the Iraqi Government and ISIS and the

\textsuperscript{112} The last major attack was reported on 14 September 2017, when car bombs and a coordinated assault targeted Shi‘ite pilgrims near Nasseryia in Dhi-Qar Governorate, killing at least 80 people. ISIS reportedly claimed responsibility for the attacks; AP, \textit{ISIS Suicide Attack: More than 80 Killed in Southern Iraq}, 15 September 2017, https://bit.ly/2SBxEjV.


human rights violations and abuses committed by ISIS and other parties to the conflict.\textsuperscript{118} In total, decades of conflict and human rights abuses in Iraq have left hundreds of thousands of people dead or missing.\textsuperscript{119}

As of late summer 2017, following the end of the Mosul offensive, monthly casualty figures declined, a trend that continued throughout 2018 and into 2019.\textsuperscript{120} At the time of writing, civilian casualties are reported to occur mostly in areas where ISIS maintains a presence.\textsuperscript{121} Based on statistics provided by the UN Assistance Mission for Iraq (UNAMI), Baghdad was the worst affected governorate in terms of the total numbers of casualties in most months of 2018, largely as a result of regular small-scale attacks (shootings, IEDs and “sticky bombs”) and infrequent mass casualty incidents.\textsuperscript{122} In 2018, Baghdad (the most populous governorate of Iraq) was followed (or surpassed in some months), although not always in the same order, by Al-Anbar, Diyala, Nineawa, Kirkuk, Salah Al-Din and Babel Governorates.\textsuperscript{123} Based on an analysis of Iraq Body Count (IBC) casualty statistics for 2018, Nineawa Governorate saw the highest civilian casualty rate, i.e. the number of casualties per 100,000 inhabitants (46.5 casualties per 100,000 of population), followed by Kirkuk (18.3), Diyala (16.4), Salah Al-Din (10) and Baghdad (7.4).\textsuperscript{124}

\textsuperscript{118} There are several data sets on casualties in Iraq based on different methodologies, and the totals recorded by each vary considerably. None of these figures can be considered fully accurate in light of the difficulties to compile reliable data under the current security conditions and all sources stress that these are to be considered “minimum” figures. UNAMI recorded an “absolute minimum” of 85,123 civilian casualties (29,973 killed and 55,150 wounded) from armed conflict, terrorism and violence from 1 January 2014 to 31 December 2017; UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6afc544.html, p. 2. IBC Body Count (IBC) recorded over 67,000 civilian deaths between January 2014 and December 2017; see Iraq Body Count, Database, accessed 30 April 2019, www.iraqbodycount.org/database. The Blog “Musings on Iraq” recorded 17,098 civilian deaths in 2014, 17,339 in Iraq in 2015, 24,091 in 2016 (2016 includes civilian and non-civilian deaths), and 14,541 in 2017; Musings on Iraq, 2017 Security in Iraq in Review Defeat of the Islamic State on the Battlefield, 3 January 2018, https://bit.ly/2QOFcSS; Musings on Iraq, 24,091 Reported Dead and 39,205 Wounded in Iraq in 2016 (2nd Revision), 2 January 2017, https://bit.ly/2jVF0xV; Musings on Iraq, Over 51,000 Casualties in Iraq in 2015, 24 February 2016, https://bit.ly/1RxAuZ; Musings on Iraq, 2014 Deadlist Year in Iraq since Civil War Period, 6 January 2015, https://bit.ly/1wRvB6B.

\textsuperscript{119} “The International Center for Missing Persons, which has been working in partnership with the Iraqi government to help recover and identify the missing, estimates that the number of missing people in Iraq could range from 250,000 to 1 million people”; HRW, World Report 2019 – Iraq, 17 January 2019, www.ecoi.net/en/document/2002196.html. IBC estimates that since 2003, between 183,348 and 205,908 civilians have been killed in Iraq; IBC, accessed 30 April 2019, www.iraqbodycount.org. See also, Washington Post, 15 Years after the Iraq War Began, the Death Toll Is still Murky, 20 March 2018, https://wapo.st/2MxLxEd.


D. Forced Displacement and Returns

1) Internal Displacement

The conflict between 2014 and 2017 has caused the cumulative displacement of nearly six million Iraqis – around 15 per cent of the country’s population. At the end of April 2019, more than 1.65 million persons primarily from Ninewa, Salah al-Din and Anbar Governorates, including 800,000 children, remain displaced. Most IDPs have been displaced multiple times and, as of September 2018, over half of the IDP population is reported to have been living in displacement for three or more years. At the time of writing, IDPs are reported to be displaced across 38 districts and 1,596 locations across Iraq, with the KR-I, Ninewa, Salah al-Din, and Kirkuk Governorates hosting the largest numbers of IDPs.

New displacement continues to be reported, including as a result of unsuccessful attempts to return to areas of origin, continued insecurity and attacks by ISIS, as well as reprisal acts against civilians perceived to be supporting ISIS. New and secondary displacement has also been caused by environmental factors, including floods as well as water shortages and poor water quality.

2) Return

See Section II.B.5 (“Security in the Kurdistan Region”).


Displacement in Iraq has been far from linear. Almost 60 per cent of internally displaced respondents had fled more than once; Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), Nowhere to Return to – Iraq’s Search for Durable Solutions Continues, 1 November 2018, www.refworld.org/docid/5beb01d74.html (hereafter: NRC/IDMC, Nowhere to Return to, 1 November 2018, www.refworld.org/docid/5beb01d74.html).


The KR-I continues to host over 40 per cent of the overall IDP population in Iraq, with the IDPs exerting continuous pressure on already over-stretched local capacities. As of 28 February 2019, over 334,000 IDPs were hosted in Dohuk Governorate, over 212,000 in Erbil Governorate, and over 150,000 in Sulaymaniyah Governorate. While other governorates have seen a decrease in the number of IDPs, the KR-I continues to host nearly as many IDPs as in the early phases of the crisis; IOM, DTM Round 108 – February 2019, 20 March 2019, http://bit.ly/2Jv0i7F, pp. 7, 13. For updated displacement figures, see IOM, http://iraqdtm.iom.int/IDPsML.aspx.


2) External Displacement

Conflict and human rights violations have forced Iraqis to flee abroad in search of safety and protection, often following internal displacement. As of 30 April 2019, there were over 259,000 Iraqi refugees and asylum-seekers in Turkey, Jordan, Syria Lebanon, Egypt, and in the member states of the Cooperation Council for the Arab States of the Gulf (GCC); the majority of these Iraqis had arrived since 2014. In addition, some 31,000 Iraqis are residing in Al-Hol, Roj, and Newroz camps in Al-Hassakeh Governorate in Syria, the majority of whom have not been formally registered by UNHCR. Iraq remained one of the main countries of citizenship of asylum-seekers in EU member states in 2018.

3) IDP Returns

Following the end of major military operations against ISIS, IDP returns started to exceed new internal displacement as of January 2018. By the end of April 2019, more than 4.2 million Iraqis are reported to have returned to their sub-district of origin in nearly 1,600 locations across the country, primarily to areas formerly held by ISIS in the Governorates of Ninewa, Al-Anbar, Salah Al-Din, Kirkuk and Diyala. Approximately half a million returnees are considered to be living in conditions of “high or very high severity of humanitarian need” in several districts in the Governorates of Al-Anbar, Baghdad, Diyala, Erbil, Kirkuk, Ninewa and Salah Al-Din.

a) Obstacles to Return

Despite the return of a sizable number of IDPs to areas retaken from ISIS, the pace of returns has been slowing down over the course of 2018 and into 2019 and most remaining IDPs report planning to stay in their current location rather than returning to their area of origin. Humanitarian actors anticipate that protracted displacement will continue in 2019. Obstacles to return include in

---

135 "In the absence of safety and opportunities for durable solutions [in Iraq], many repeated internal displacements eventually led to cross-border movements”; NRC/IDMC, Nowhere to Return to, 1 November 2018, www.refworld.org/docid/5beb01d74.html, p. 13.
136 Turkey: 132,335; Jordan: 67,554; Syria: 34,976; Lebanon: 14,194; Egypt: 6,999; GCC: 3,354; UNHCR, 30 April 2019.
137 Only Iraqis hosted in Newroz camp (320 Iraqis) and Roj camp (319 Iraqis) have formally been registered by UNHCR; UNHCR, 30 April 2019.
139 “Following the official declaration of the end of the ISIL conflict in December 2017, there was an increase in the number of families returning to their places of origin. However, it is important to note that return movements have taken place throughout the conflict, as areas were retaken from ISIL”; IOM, Reasons to Remain, November 2018, www.refworld.org/docid/5b0685154.html, p. 3. See also, IOM, Number of Returns Exceeds Number of Displaced Iraqis: UN Migration Agency, January 2018, https://bit.ly/2qTTMsa.
140 IOM defines returnees as “all those displaced since January 2014 who return to their location of origin, irrespective of whether they have returned to their former residence or to another shelter type. The definition of returnees is not related to the criteria of returning in safety and dignity, nor with a defined strategy of durable solution. The location is defined as an area that corresponds either to a sub-district (i.e. fourth official administrative division), a village for rural areas or a neighbourhood for urban areas (i.e. fifth official administrative division)”; IOM, DTM Round 108 – February 2019, 20 March 2019, http://bit.ly/2JvOMF7, p. 6. For updated return figures, see: http://iraqdtm.iom.int/ReturnseeML.aspx.
146 "Many families continue to face constrained access to basic services, and security and protection risks while contending with destroyed properties and critical infrastructure, and the lack of livelihood opportunities and financial resources”; UNHCR, Global
particular destroyed or damaged housing, unresolved housing, land and property (HLP) disputes, lack of livelihoods, limited access to education, health and other basic services, as well as continued insecurity in areas of origin, including as a result of contamination of homes and land with ERW, sporadic attacks by ISIS, and the presence of government-affiliated groups.

For families associated with actual or perceived ISIS members, community tensions, discrimination, fear of arrest and reprisal acts as well as the confiscation of documentation or refusal to issue new documentation are also reported to hamper returns. Others are reported to be barred from returning, or face secondary displacement following their return due to stigmatization and acts of retribution.


“Locations with high levels of residential destruction and/or presence of illegal house or property occupation tend to have significantly lower rates of return.” And further: “[A]mong IDPs assessed in Iraq, house destruction seems to be the most prevalent self-reported reason for staying displaced”; IOM, Reasons to Remain, November 2018, www.refworld.org/docid/5b6f85154.html, pp. 4, 19. Forty-six per cent of surveyed out-of-camp IDPs and 33 per cent of surveyed IDPs in camps, respectively, cited shelter, damage, secondary occupation, or unresolved HLP ownership issues as a top reason for not intending to return to their areas of origin; REACH, Multi-Cluster Needs Assessment (MCNA) – In-Camp IDPs, September 2018, https://bit.ly/2CWilsP, p. 2; REACH, MCNA – IDPs out of Camp, September 2018, https://bit.ly/2RzdK4b, p. 2.


See below “Barred Returns”.

“In the last three months a third of the displaced people who returned home from just one camp in Anbar were rejected by their local communities and had to relocate again elsewhere”; NRC, Iraq’s still Languishing One Year since Announced Defeat of Islamic State Group, 7 December 2018, https://bit.ly/2E6oovB. “The security and protection environment remain volatile, posing serious protection risks to Iraqi civilians. Abductions, disappearances, detention, increased risks of sexual- and gender-based violence and violations of child rights continue. For many, a combination of these factors has led to secondary or repeated
The return of members of ethno-religious minorities, including Turkmen, Yazidis, Christians, Shi'ites and Shabak, is reported to have been slow and many remain displaced. Most IDPs who fled Sinjar, in particular members of the Yazidi community, have not attempted to return, including due to the widespread destruction of homes and infrastructure, the lack of livelihoods and basic services, persisting community tensions as well as continued insecurity.

b) Forced and Premature Returns

In spite of continued obstacles to sustainable return and reintegration, authorities and security actors in Al-Anbar, Baghdad, Kirkuk, Diyala and Salah Al-Din Governorates encourage, pressure, and at times coerce, IDPs to return to their areas of origin, often resulting in secondary displacement. As of


October 2018, a total of 32 IDP camps have been closed by the Iraqi authorities, resulting in the eviction and return or renewed displacement of tens of thousands of individuals. Additional camp closures have since been reported in Al-Anbar and Kirkuk Governorates. Other IDPs are reported to return due to the precarious humanitarian conditions in areas of displacement. Severe movement restrictions in IDP camps are reported to incentivize IDPs' decisions to return to their areas of origin. IDPs living outside of camps are at risk of eviction by owners who reclaim their properties, which may similarly result in pressure to return.

Forced and premature returns are reported to frequently result in secondary displacement, evident also by ongoing readmissions to IDP camps.

c) Barred Returns

Returnees must undergo security screening and obtain approval from various actors in displacement and return areas, including military and security actors, local authorities and tribes. Approval to return has reportedly been denied by state and non-state actors on the basis of discriminatory criteria,


On 3 December 2018, government authorities closed Kilo 18 camp (Al-Anbar Governorate), resulting in the premature return of the majority of the camp’s inhabitants, while others were relocated to another camp in the same governorate. Additional relocations were reported in early December 2018 from Bzebiz Camp (Al-Anbar Governorate) in view of the camp’s partial closure. In late December 2018, IDPs from informal settlements in Al-Anbar were relocated to formal camps in the same governorate; UNHCR, *Iraq Protection Update – December 2018*, 31 December 2018, https://bit.ly/29C9D9v, p. 2. See also, Kurdistan 24, *Iraq Closes IDP Camp in Kirkuk, after Sending Hundreds back to Hawija*, 10 February 2019, https://bit.ly/2SI6er2.

160 “Poor conditions in areas of displacement can also act as a negative push factors prompting people to leave areas of displacement prematurely. Included among these are: • Insecurity, and lack of safety and protection. • Limited freedom of movement and inability to reunify with family members. • Gaps in services, creating a lack of dignity in camps”; NRC/IDMC, *The Long Road Home*, 27 February 2018, https://bit.ly/2D3uFZc, p. 18. See also, NRC/IDMC, *Nowhere to Return to*, 1 November 2018, www.refworld.org/docid/5beb01d74.html, p. 32.


163 “Forced and premature returns continue to be reported in Salah al-Din, Baghdad, Anbar, Kirkuk, Diyala and Nineveh governorates, including through coercive practices, often resulting in secondary displacement”; OCHA, *Iraq: Humanitarian Needs Overview 2019* (November 2018), 16 December 2018, https://bit.ly/2C1zSWd, p. 31. “The armed group [ISIS] is re-gaining footholds in, in some instances, displacing villagers who’d recently returned home”: Amnesty International, *Dead Land: Islamic State's Deliberate Destruction of Iraq's Farmland*, 12 December 2018, www.ecoi.net/en/file/local/1454298/1226_1544695409_mde1495102018english.PDF, p. 10. “Few returning refugees and IDPs have been able to achieve durable solutions. Some have gone back to their homes or areas of origin, but have not been able to re-establish their lives and livelihoods. Others continue to have significant assistance and protection needs. Despite having returned, they live in de facto internal displacement. Unlike those still recognised as IDPs, however, they receive little support”;

NRC/IDMC, *Nowhere to Return to*, 1 November 2018, www.refworld.org/docid/5beb01d74.html, p. 28. See also pp. 8, 22, and 32 of the same report.


including IDPs’ ethnic-religious profile167 and/or their association with actual or perceived ISIS members.168 Such bans on returns leave a significant number of IDPs involuntarily stuck in displacement.169 Even those who obtain a return clearance are not necessarily able to return to their home areas in practice, as security actors may still block their return, e.g. at checkpoints along the return route or in the area of origin.170

4) Returns from Abroad

In 2018, over 5,600 Iraqis returned through the Assisted Voluntary Return and Reintegration (AVRR) Programme operated by the International Organization for Migration (IOM), mostly from Europe.171 Others are reported to have returned under Iraqi government-sponsored return programmes or by their own means.172 Reasons cited by Iraqi nationals for returning include, inter alia, homesickness and a wish to reunite with family members in Iraq; difficult conditions in host countries; and delays in asylum procedures and corresponding delays in obtaining a secure legal status, access to services, and access to family reunification.173

E. Human Rights Situation

Despite the Iraqi Government’s stated commitment to upholding its national and international human rights obligations, and relative improvements in the security situation,174 “the environment for the protection of human rights in the country remained fragile.”175 This chapter focuses on human rights violations by various state and non-state actors, including in particular the right to life, the right to freedom from ill-treatment and torture, right to liberty and freedom of movement, as well as the rule of law and administration of justice in Iraq.

167 See Section II.E.1.b (“Human Rights Violations by the Kurdish Authorities”).


170 Since late 2017, thousands of Iraqis are reported to have returned from Syria and Turkey in movements facilitated by the Iraqi authorities. Difficult humanitarian conditions as well as stringent movement restrictions in camps in Syria are reported to be among the reasons for their return to Iraq. On return to Iraq, some returnees ended up in a situation of continued displacement, including in IDP camps; see UNHCR Protection Updates for the months of August to November 2018 and January 2019, available at: https://bit.ly/2zreBGMs. See also, VOA, “Iraqi Refugees in Syria Refuse to Return Home”, 1 November 2018, https://bit.ly/2Qc6KBX; Anadolu Agency, “27,000 Refugees Return to Iraq from Syria, Turkey”, 21 March 2018, https://bit.ly/2QoylId.


172 See Section II.B (“Security Situation”).

173 See Section II.B (“Human Rights Situation”).
Other serious and widespread human rights violations, such as sexual and gender-based violence (SGBV), violations of freedom of religion, freedom of expression and assembly are addressed within the relevant risk profiles, which describe the treatment of specific groups of individuals by state and non-state actors.

1) State Actors

a) Human Rights Violations by Iraqi Authorities and Affiliated Forces

In the context of military operations against ISIS between 2014 and 2017, ISF and affiliated forces are reported to have engaged in arbitrary arrest and detention, abduction, enforced disappearance, torture and other forms of ill-treatment, as well as extra-judicial killing of mostly Sunni Arab men and fighting-age boys, whom they perceived to be affiliated with ISIS, including on the basis of broad and discriminatory criteria. Other reported violations and abuses included forced evictions, looting, deliberate burning and destruction of homes, and, in some cases, the deliberate destruction of whole villages, as well as blocking the return of Sunni Arab inhabitants.

Since the end of major military operations, arbitrary arrests of mainly men and boys of fighting age are reported to continue, mostly under the Anti-Terrorism Law of 2005. It has been reported that...
thousands of suspected ISIS fighters and affiliates, including women and children, have been arrested, often in an arbitrary manner, and detained by the ISF and affiliated forces on suspicion of support for ISIS. Others who have been arrested or abducted are reported to remain missing. Various security agencies are reported to be involved in arrests and detentions, including government-affiliated forces and the National Security Service (NSS), which lack a clear mandate to arrest and detain suspects. Persons of other profiles, including in particular journalists and media professionals, civil society activists and others perceived to be critical of the government are also at times subjected to arbitrary arrest and detention, including under the 2005 Anti-Terrorism Law.


183 According to AP, at least 19,000 people have been detained or imprisoned in connection with their suspected ISIS affiliation or other terror-related offenses; AP, Iraq Holding more than 19,000 Because of IS, Militant Ties, 22 March 2018, https://bit.ly/2ypn4QQ. “(…) in Mosul alone, 4,383 alleged ISIL members were detained, 2,019 detainees had been sent to Baghdad and 1,004 released. 413 investigations had been completed and sent to the courts”; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b7ad3d94.html, para. 46. “A harsh and overbroad legal framework governing terrorism-related offenses in Iraq has enabled the mass incarceration of tens of thousands of individuals (both pre- and post-trial) whose connection to IS is often tenuous. (…) A counter-terrorism advisor to the Iraqi Government estimated in December 2017 that the number of detainees accused of association with ISIS may reach 36,000”; UN-CPR, The Limits of Punishment, May 2018, https://bit.ly/2z6nQC, pp. 17, 22. Many arrests are reported to occur on the basis of questionable evidence such as statements from secret informants or inclusion on “wanted lists” administered by different security actors; see Section III A.1 (“Persons Wrongly Suspected of Supporting ISIS”).


Reports indicate that detainees are often held in prolonged pre-trial detention in official and unofficial detention centres,\(^{187}\) without timely review of their arrest and detention status by a competent judge.\(^{188}\) Observers report that ISIS suspects and other detainees, including children, regularly remain without access to a lawyer, medical care and their families are often not informed about their whereabouts.\(^{189}\) Human rights organizations have qualified these detentions as “enforced disappearance”.\(^{190}\) If and when families are informed, they have reportedly been asked by officials to pay exorbitant sums to secure visits, better treatment, or the release of their detained family members even after they were found innocent.\(^{191}\)

---

\(^{187}\) Observers have reportedly been unable to obtain a list of official detention facilities, and reported that according to Iraqi judges and Ministry employees the centres run by the Ministries of Interior and Justice are the only official detention centres; HRW, *Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017*, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf, pp. 5, 55-61. The number and location of NSS detention centres and the number of persons detained by the NSS are unknown. In one case, the NSS was reported to have detained over 400 individuals in east Mosul in a makeshift detention facility, without a clear legal basis. The head of NSS in Mosul reportedly stated that while they would like to transfer detainees to other authorities, there is no available room in other facilities; HRW, *Iraq: Intelligence Agency Admits Holding Hundreds Despite Previous Denials*, 22 July 2018, www.ecoi.net/en/document/1438864.html.

\(^{188}\) “Authorities systematically violated the due process rights of ISIS suspects and other detainees, such as guarantees in Iraqi law for detainees to see a judge within 24 hours, to have access to a lawyer throughout interrogations, and to have families notified of their detention and to be able to communicate with them”; HRW, *World Report 2019 – Iraq*, 17 January 2019, www.ecoi.net/en/document/2002196.html. “Researchers observed that thousands of prisoners facing terror charges are held for months before they see a judge (…)”; HRW, *Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017*, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf, p. 23. “(…) the Criminal Procedure Code appears to be set aside for those charged under the Anti-Terrorism Law, which means that defendants are denied their fair trial rights and due process guarantees. This includes the right to be informed upon arrest of the reasons therefor and the charges brought, access to legal representation from the moment of arrest, the right to have arrest and detention status reviewed by an independent and competent judge in a timely manner, and the prohibition of torture to extract a confession”; UN Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, para. 47. “While the counterterrorism law does not suspend any aspects of the criminal procedure code, authorities handling cases are unable or unwilling to uphold procedural rules requiring that a suspect be detained only after a court-issued arrest warrant, see a judge within 24 hours, to have access to a lawyer throughout interrogations, and to have families notified of their detention, and have a lawyer present throughout the investigative process”; HRW, *Flawed Justice*, 5 December 2017, www.refworld.org/docid/5a2651964.html, p. 21.


Detainees are reportedly held in poor, overcrowded and in some cases inhumane conditions, with limited access to food, water and medical care. Children are reported to be held together with adults or in often overcrowded juvenile facilities with limited options for rehabilitation and reintegration.

The use of torture and other forms of ill-treatment, including against children, mostly used to elicit confessions such as admitting to membership of ISIS, has been described as “rampant”, particularly in pre-trial detention in official and unofficial facilities. Deaths in detention as a result of torture and lack of medical care have been reported.

The multitude of judicial authorities and security actors and the lack of coordination among them is reported to lead in some cases to the re-arrest of persons previously cleared of charges or who had already been cleared.


already served a sentence. In one reported incident, 12 children who had been transferred from KRG detention into the custody of the central authorities in mid-2017 have reportedly “disappeared”.

The criminal justice system reportedly remains deeply flawed with regular violations of defendants’ right to a fair trial, in particular for those charged under the Anti-Terrorism Law. The authorities are reported to rely on expedited trials in counterterrorism courts to prosecute ISIS suspects under the Anti-Terrorism Law, with trials often lasting less than 30 minutes. At the hearing, suspects have a private or state-appointed lawyer; however, the lawyers regularly have limited or no access to the defendant prior to the trial. In March 2019, HRW reported that it had observed improvements in Ninewa’s counter-terrorism court, particularly in relation to the requirement for evidence to detain and prosecute suspects and reduced reliance on confessions.

Judges are reported to often convict the accused mainly, or solely, based on confessions obtained under torture or duress, and/or from information obtained through “secret informants” and are


“The Special Rapporteur was also made aware of a large number of allegations regarding violations of fair trial and due process guarantees in death penalty cases. These include, in particular, sentencing based mainly or solely on confessions obtained under torture or duress, lack of judicial investigation into allegations of torture during the investigation phase and swift trials resulting in mass executions. (…) existing procedural guarantees to ensure fair trials either are not implemented in practice or have proven insufficient to protect against abuses of due process rights, resulting in systematic violations of the right to life”; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, paras 67-68. See also, Amnesty International, Human Rights in Iraq: Review of 2018, 26 February 2019, https://bit.ly/2EkxROr, p. 3; Freedom House, Freedom in the World 2019 – Iraq, 4 February 2019, www.ecoi.net/en/document/2020613.html.


“(…) judges in the Nineveh governorate in northern Iraq are requiring a higher evidentiary standard to detain and prosecute suspects, minimizing the court’s reliance on confessions alone, erroneous wanted lists, and unsubstantiated allegations.” Yet, HRW assessed that “more work is needed to ensure defendants are not mistreated and get fair trials”; HRW, Iraq: Key Courts Improve ISIS Trial Procedures, 13 March 2019, http://bit.ly/2ObvkuB.


“Informants never appear in court; their claims are passed to the judges in dry, written reports from intelligence officials with no hint of their possible motivation”; AP, A Neighbor’s Word Can Bring Death Sentence in Iraq IS Trials, 9 July 2018, https://bit.ly/2KFVFrq. “Iraqi authorities’ heavy reliance on the testimonies of secret informants to identify and prosecute alleged IS members makes it easy for innocent people to be falsely accused and unjustly punished for crimes that they did not commit”;

UNHCR / May, 2019
reported to sentence them to long periods of imprisonment (15 years or life) or capital punishment, which is mandatory for a wide range of activities defined as “terrorist acts”. Observers report that judges have rarely ordered forensic medical examinations to investigate torture allegations, and even when they did and evidence of torture was found, they are reported not systematically to have called for retrials. Under the Anti-Terrorism Law, ISIS suspects are prosecuted on the broad charges of ISIS affiliation, irrespective of the level of individual responsibility and the severity of the charges. In spite of repeated calls by the UN and human rights organizations for a moratorium on all death sentences and executions over fair trial concerns, the death penalty continues to be extensively used, with most of the death sentences reported to be imposed under the Anti-Terrorism Law. UNAMI described the situation as “large-scale mass executions of persons convicted of terrorism-related crimes.” There are reports of individuals who were underage at the time of the commission of the alleged crime, having been sentenced to death. Although exact figures of those executed are not


The list of crimes for which the death penalty is not only applicable but mandatory is extensive and includes acts whose gravity fall below the threshold of ‘most serious crimes’ necessary to impose such a sentence under international norms. Its definition of terrorism is not in line with the International Convention for the Suppression of the Financing of Terrorism that Iraq ratified in 2012. UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, para. 47.


“(…) the Special Rapporteur is alarmed by the mass executions reported since 2016 and fears that this has become the modus operandi in particular in dealing with ISIL and terrorism cases”; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, para. 66. According to statistics available to the AP, the Iraqi government has sentenced to death at least 3,130 persons on terrorism-related charges since 2013, and at least 250 have already been executed; AP, Iraq Holding more than 19,000 Because of IS, Militant Ties, 22 March 2018, https://bit.ly/2ymp4Q; According to Amnesty International, Iraq quadrupled its known figure of new death sentences, from at least 65 in 2017 to at least 271 in 2018; at least 52 persons were executed in 2018 (compared to at least 125 in 2017). It further reported that “[T]he media office of then President Fuad Masum announced on several occasions that he had ratified ‘batches’ of death sentences that had been upheld by courts”; Amnesty International, Death Sentences and Executions 2018, 10 April 2019, www.ecoi.net/en/file/local/2006174/ACT5098702019ENGLISH.PDF, pp. 11, 37, 46-47.

UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6a6f644.html, p. vi; OHCHR, End of Visit Statement of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Her Visit to Iraq, 24 November 2017, https://bit.ly/2NFKx8B. The Iraqi Penal Code prohibits the imposition of death penalty for crimes committed when the defendant was a minor or was between the ages of 18 and 20 years; Republic of Iraq, Penal Code, Law No. 111 of 1969, July 1969, www.refworld.org/docid/452524304.html, Article 79. However, former Prime Minister Abadi has indicated that
known, numerous individuals are reported to have been executed in recent years, including in mass hangings. It has been reported that among those executed there have been intellectually disabled individuals. Iraqi law provides for an automatic appeals process in death penalty cases; however, death sentences are rarely overturned at the appeals level, according to a 2014 report. Those sentenced to death under the Anti-Terrorism Law reportedly have no right to seek clemency or pardon as required under international human rights law.

Individuals convicted of terrorism offences stipulated in the Anti-Terrorism Law for crimes committed after 10 June 2014 are reported to be ineligible to benefit from the General Amnesty Law (Law No. 27/2016), as amended by the Amnesty Amendment Law (Law No. 80/2017).

The ISF and affiliated forces have also been reported to commit a range of human rights violations amounting to “collective punishment” against civilians, in particular women and children, associated with actual or perceived ISIS members on account of their family or tribal relations. Such violations include forced evictions; the destruction, burning, looting and confiscation of homes; physical attacks; rape and other forms of sexual violence; and blocking returns. Local authorities (governorate and district councils, neighbourhood leaders) have also been implicated in banning families from returning to their home areas, or, in other cases, ordering their expulsion.

For relevant risk profiles, see Sections III.A.1, 3, 5, 6, 7, 8, 9, 10, 11 and 12.
b) Human Rights Violations by the Kurdish Authorities

In the context of military operations against ISIS between 2014 and 2017, Kurdish security forces are reported to have been implicated in arbitrary arrest and incommunicado detention, enforced disappearance, torture and other forms of ill-treatment, and extra-judicial killings of mostly Sunni Arab men and fighting-age boys, whom they perceived to be affiliated with ISIS, including on the basis of broad and discriminatory criteria. Other reported violations included the forced displacement and deliberate destruction of homes and other civilian property, and, in some cases, of whole villages suspected of affiliation with ISIS. Until the re-establishment of territorial control by the central government in the disputed areas, Kurdish forces were reported to also have prevented displaced Sunni Arabs and Turkmen from returning to some of these areas.

It has been reported that thousands of suspected ISIS fighters and affiliates, including women and children, have been arrested by the Kurdish security forces, mostly under the Region’s Anti-Terrorism Law No. 3 of 2006. Many detainees are reported to be held without timely review of their arrest and

---


224 “There are also reports of retaliatory attacks by Kurdish security forces and associated Peshmerga and Yazidi armed groups against Sunni Arab civilians and their property following the recapture of territory”; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, para. 36. “(...) there were allegations of deliberate destruction of Arab property and other rights violations by KRG Security Forces, particularly in villages suspected of affiliation with ISIL”; GPPi, Iraq After ISIL – Sub-State Actors, Local Forces, and the Micro-Politics of Control, March 2018, https://bit.ly/2EMLqjt, p. 37. “Human Rights Watch has also documented KRG forces committing unlawful destruction of Arab homes and sometimes of entire Arab villages, in tandem with the deportation of residents, in at least 21 villages in the areas of Kirkuk and Nineveh governors”; HRW, Flawed Justice, 4 December 2017, www.refworld.org/docid/5a2651964.html, p. 19. See also Sections II.D.1 (“Internal Displacement”) and III.A.1.b (“Families Associated with Real or Perceived ISIS Members”).

For example, “[F]our villages northeast of Rabi’a town – Mahmoudiya, Qahira, Saudiyah, and Sfaya – were largely destroyed, reportedly by Kurdish forces, and their populations were seldom permitted to return, even to other areas of Rabi’a.” And further: “Kurdish forces in control of areas of the Disputed Territories engaged in what appeared to be a deliberate reverse Arabization policy, forcing Sunni Arab IDPs from the area, preventing Sunni Arab return, and eliminating entire Sunni Arab communities along their line of control. This was most prominent in the Kirkuk and Zummar [Ninewa] case studies, but there were also similar allegations in northern Tuz [Salah Al-Din Governorate] and in Rabi’a [Ninewa Governorate]”; GPPi, Iraq After ISIL – Sub-State Actors, Local Forces, and the Micro-Politics of Control, March 2018, https://bit.ly/2EMLqjt, pp. 37, 59. “In Jalawla [Diya gouvernate], most of the families were blocked by Kurdish forces, whether Peshmerga, Asayish or KRG. (...) In Jalawla, the most common means to prevent families from returning was to delay the processing of their documentation, followed by stopping them at checkpoints”; IOM, Obstacles to Return in Retaken Aras of Iraq, March 2017, https://bit.ly/2FP80H1, pp. 22, 23. See also, GPPi, Iraq after ISIL: Tuz, 16 August 2017, https://bit.ly/2E8Qx02.

225 “The Kurdistan Regional Government (KRG) has arrested hundreds of boys for alleged ISIS association at checkpoints as they were fleeing ISIS territory, from camps for displaced persons, or when entering the Kurdistan region to find work”; HRW, “Everyone Must Confess”, 6 March 2019, http://bit.ly/2Jdtqgi. “As of September 2017, a total of 2,652 individuals had been arrested and detained by Kurdistan Regional authorities since 2015 under anti-terrorism laws on suspicion of supporting ISIS. Of these, 1,110 have been found guilty on terrorism charges and 870 have been released”; UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6a4c544.html, p. 11. “(...) at least 4,000 individuals have been detained on IS-related charges by Kurdish Regional Government (KRG) authorities”; UNU-CPR, The Limits of Punishment, May 2018, https://bit.ly/226NqC, p. 17. “In 2017 at least 1,036 children (1,024 boys, 12 girls), including 345 in the Kurdistan Region, remained in juvenile detention facilities on national security-related charges, mostly for their alleged association with ISIS” (emphasis added); UNSC, Report of the Secretary-General on Children and Armed Conflict, 16 May 2018, A/72/685–S/2018/465, https://undocs.org/A/72/685, para. 76. See also, US Department of Labor, 2017 Findings on the Worst Forms of Child Labor – Iraq, 20 September 2018, www.refworld.org/docid/5bd0bec2e.html, p. 6; HRW, Flawed Justice, 4 December 2017, www.refworld.org/docid/5a2651964.html, pp. 38, 48. See also Section III.A.1.a (“Civilians Perceived to Be Supporting ISIS”).

The KR-I adopted its own Anti-Terrorism Law (Law No. 3 of 2006). The law expired in July 2016, but was renewed on 1 July 2018. Concerns were raised over the law’s application in the interim period; Al-Monitor, Renewal of Anti-Terror Law Threatens
detention status by a competent judge and are denied access to their family or lawyers. Observers also express concern about the reported use of torture and ill-treatment of detainees during investigations, including of children.

Detainees are reportedly held in inadequate conditions due to overcrowding, poor hygiene, and lack of health services. Children are reported to be regularly detained together with adults or held in overcrowded conditions in juvenile facilities with limited options for rehabilitation and reintegration. ISIS suspects are tried in expedited procedures in counter-terrorism courts, which are reported to lack judicial independence. The justice system is reported to continue to rely heavily on confessions and, according to UNAMI/OHCHR, there is no effective system in place to investigate torture.


The Kurdish Regional Government in northern Iraq is torturing children to confess to involvement with the Islamic State (…). Nearly two years after the Kurdistan Regional Government promised to investigate the torture of child detainees, it is still occurring with alarming frequency (…); HRW, Kurdistan Region of Iraq: Detained Children Tortured, 8 January 2019, https://bit.ly/2AIK5zo.


The Iraqi government and KRG authorities have specialized juvenile justice systems for children. However, not all children suspected of ISIS affiliations are being held in those systems’ facilities throughout their investigation and trial”; HRW, Flawed Justice, 4 December 2017, www.refworld.org/docid/5a2651964.html, p. 44. See also p. 48 of the same report. See also, UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6af6c544.html, p. 11; HRW, Iraq/Kurdistan Region: Men, Boys Who Fled ISIS Detained, 26 February 2017, www.refworld.org/docid/5b83f8c14.html. See also, Section III.A.9 (“Children with Certain Profiles or in Specific Circumstances”).

Most reported that their court hearings lasted no more than five or 10 minutes, and were typically conducted in Kurdish, a language they did not understand”; HRW, “Everyone Must Confess”, 6 March 2019, http://bit.ly/2Jdtlq. See also, HRW, Kurdistan Region of Iraq: Detained Children Tortured, 8 January 2019, https://bit.ly/2AIK5zo.

“Other problems hampering judicial independence include the (…) politicization of the terrorism court – in which judges make rulings based on instructions of KDP and PUK security forces and clients (…)”; The Tahrir Institute for Middle East Policy, Judiciary in Kurdistan Region in Peril, 11 January 2019, https://bit.ly/2Fqa7ey. See also Section II.E.3 (“The Ability and Willingness of the State to Protect Civilians from Human Rights Abuses”).
INTERNATIONAL PROTECTION CONSIDERATIONS WITH REGARD TO PEOPLE FLEETING THE REPUBLIC OF IRAQ

allegations.\(^{235}\) Observers have expressed concern over KRG courts prosecuting ISIS suspects for crimes carried out outside their territorial jurisdiction.\(^{236}\) Despite a de facto moratorium on the implementation of the death penalty, the KRG is reported to have breached it on two occasions in 2015 and 2016.\(^{237}\) On 17 December 2017, the Kurdistan Parliament ratified an Amnesty Law (Law No. 4 of 2017), which, \textit{inter alia}, provides for the commutation of death sentences to 15 years imprisonment when reconciliation is reached with the families of the victims. The law is reported not to apply to certain categories of crimes, including “crimes relating to national security, repeat offenders, some financial crimes, and rape and torture of children, among others.”\(^{238}\) According to reports, the KRG has no amnesty law in place for suspects who joined ISIS and are found not to have committed any other crimes.\(^{239}\)

For relevant risk profiles, see Sections III.A.1, 4, 5, 6, 8, 9, 10, 11 and 12.

2) Non-State Actors

a) Human Rights Abuses by ISIS

While holding control of territory between 2014 and 2017, ISIS is reported to have committed acts that would amount to war crimes, crimes against humanity, and, in the case of the Yazidi community, genocide.\(^{240}\) Reports by the UN and human rights organizations have implicated members of ISIS in gross, systematic and widespread attacks directed against civilians, including murder, kidnapping, sexual violence, torture and crimes against humanity.\(^{241}\) Reports by the UN and human rights organizations have implicated members of ISIS in gross, systematic and widespread attacks directed against civilians, including murder, kidnapping, sexual violence, torture and crimes against humanity.\(^{241}\)

---


\(^{236}\) *KRG courts are in many cases prosecuting suspects for crimes committed in Mosul and other areas of federal Iraq that fall outside of their territorial jurisdiction. Some of these crimes also occurred in disputed territories where both the federal Iraqi government and KRG claim jurisdiction – notably Sinjar District (the site of IS’s massacre of the Yazidis) and Tel Afar District, one of the last areas lost by IS before its retreat into Syria. As a matter of territorial jurisdiction, KRG authorities should be transferring suspects accused of committing terrorism-related offenses on federal Iraqi soil to federal Iraqi authorities, but they have resisted doing so*; UNU-CPR, \textit{The Limits of Punishment}, May 2018, https://bit.ly/2zI6nQC, p. 18.


hostage-taking, suicide bombings, torture, rape, sexual slavery and other forms of sexual violence, sale into or otherwise forced marriage, trafficking in persons, forced religious conversions, recruitment and use of children as well as attacks on critical infrastructure and destruction of cultural heritage. To date, more than 200 mass graves containing the remains of thousands of men, women and children have been discovered in areas formerly controlled by ISIS, including in Ninewa, Kirkuk, Salah Al-Din, Al-Anbar, Babel, and Baghdad Governorates.

Following the loss of territory, ISIS is reported to continue to launch attacks in and around its former strongholds, mainly targeting members of the ISF and affiliated forces as well as civilians considered to be representing the state or collaborating with it. The group is further reported to continue to single out religious and minority ethnic groups. Reported methods of attack include in particular targeted assassinations and kidnappings, the storming of villages, and IED attacks aimed at causing mass casualties. ISIS is reported to finance its activities through extortion of civilians, kidnappings for ransom and other criminal activities.

For relevant risk profiles, see Sections III.A.2, 5, 6, 8, 9, and 10.

---

241 Ibid

243 It has been reported that a kidnapped individual’s religious background determines whether ISIS asks for ransom (Sunnis) or kill the victim (Shi’ites). With the killing of Shi’ites, whom ISIS considers to be apostates, the group reportedly seeks to provoke sectarian tensions; New York Times, They Go to the Desert to Hunt for Truffles. But ISIS Is Hunting Them, 19 March 2019, https://nyti.ms/2TOFOpJ. See also, Section III.A.5 (“Members of Religious and Minority Ethnic Groups”).

244 “Other activities have aimed at restoring the group’s financial footing. On Sunday [17 February 2019], militants kidnapped a group of 12 truffle hunters in the western Anbar province, marking a return to a strategy of intimidating and extorting farmers and traders for financial gain”; AP, IS Move from Syria to Iraq, Destabilize Country’s Security Say Officials, 23 February 2019, https://bit.ly/2SXuLdc. “Extortion remains a major source of income for the group, facilitated by ISIS’s tactic of gathering personal information on civilians while governing territory, according to media reports. This allows ISIS to build leverage and threaten or extort civilians in areas where the group maintains a presence.” In addition, “ISIS in Iraq gains revenue from limited oil smuggling, taxation, kidnapping for ransom, trafficking of drugs and other illicit materials, external donations, and a range of various other criminal activities”; US Department of Defense, Lead Inspector General for Operation Inherent Resolve Quarterly Report to the United States Congress I October 2018 – December 31, 2018, 4 February 2019, https://bit.ly/2AcATU0; ISW, ISIS’s Second Resurgence, 2 October 2018, https://bit.ly/2y28pL9. See also examples included under respective risk profiles.

b) Human Rights Abuses by Family, Tribe, Community

Acts of violence, abuse and harmful traditional practices against women and girls as well as individuals of diverse sexual orientations and/or gender identities are commonly committed by members of an individual’s family, tribe, or community. Furthermore, in some areas, members of local communities and tribes are also reported to prevent the return of civilians perceived to be affiliated with ISIS or have engaged in reprisal acts against them. In some areas, tribal and community leaders have reportedly been successful in containing violent retribution against suspected ISIS members and their families by barring collective punishment against families associated with actual or perceived ISIS members and engaging in reconciliation efforts.

For relevant risk profiles, see Sections III.A.1, 5, 8, 9, 10, and 11.

3) The Ability and Willingness of the State to Protect Civilians from Human Rights Abuses

a) Availability of State Protection in Areas under Control of the Central Government

Iraq lacks an appropriate legal framework to prosecute international crimes, including war crimes, crimes against humanity and genocide. Even where the legal framework provides for the protection of human rights, the implementation of Iraq’s commitments under national and international law to promote and protect these rights in practice frequently remains a challenge, and both state and non-state actors commit human rights violations and abuses with impunity. Based on a UNSC resolution

247 See Section III.A.8 (“Women and Girls with Certain Profiles or in Specific Circumstances”) and III.A.10 (“Persons of Diverse Sexual Orientations and/or Gender Identities”).

248 “Tribalism is an integral part of the fabric of Iraqi society, where tribes have been important providers of justice, security, and services since the founding of the modern Iraqi state in 1921”; UNJ-CPR, The Limits of Punishment, May 2018, https://bit.ly/2zI6nQC, p. 24. Tribes transcend geographic and ethnic divisions and by some estimates, the large majority of Iraq’s population belongs to one of the country’s 150 tribes, or, at a minimum, maintains kinship ties with a tribe. Tribes are traditionally ordered on multiple levels: Confederation (Qabila), tribe (’Ashira), clan (Fakhidh), house (Beit), and extended family (Khamsa); Project on Middle East Political Science (POMEPS), Legal Pluralism and Justice in Iraq after ISIL, 10 September 2018, https://bit.ly/2rPzpPq; War on the Rocks, Baghdad Must Seize the Chance to Work With Iraq’s Tribes, 17 January 2018, https://bit.ly/2P0YI7W; University of Nebraska, Iraqi Ethnic, Tribal, and Religious Groups, undated, https://bit.ly/28X2FES, pp. 3-5.

249 See Section III.A.1.a ("Civilians Perceived to Be Supporting ISIS") and b ("Families Associated with Real or Perceived ISIS Members").


251 “The Government has embarked on a large judicial endeavour to hold ISIL fighters to account for massive violations of human rights and humanitarian law primarily through the Anti-Terrorism Law. (…) The Special Rapporteur does not believe that the Anti-Terrorism Law was designed to respond to such international crimes. To date, the Penal Code does not include provisions covering international crimes”; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, paras 46, 48-49.

252 “Ensuring accountability for crimes committed in relation to armed conflict, including acts of terrorism and other forms of violence, violations of international humanitarian law, and human rights violations and abuses, no matter when, where or by whom such crimes, violations or abuses were committed, remain significant challenges in Iraq”; UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b8af6544.html, p. 7. “The impunity of Iraqi and KRG security forces for their own serious abuses is a serious problem for justice and accountability in Iraq and for broader efforts at reconciliation. As far as Human Rights Watch is aware, Iraqi and KRG courts have not convicted Iraqi, Kurdish or anti-ISIS forces for any human rights and laws of war abuses”; HRW, Flawed Justice, 4 December 2017, www.refworld.org/docid/5a2651964.html, p. 7. “(…) the PMU have undoubtedly and repeatedly committed gross human rights violations. However, as with many of the problems caused and challenges presented by the PMU, their human rights violations are a symptom of a broader Iraq-wide issue. Presenting the PMU as somehow uniquely implicated in human rights violations overlooks the fact that there is a far broader culture of impunity that is unfortunately exhibited by all armed actors in Iraq: from the pre-2003 regime to U.S. and British forces to security contractors to the Iraqi federal police, Iraqi army, intelligence services, Ministry of Interior, Peshmerga, Asayish, the Awakening
adopted in September 2017, a UN investigative team (UNITAD) was tasked to support domestic efforts to hold ISIS accountable for its crimes by collecting, preserving and storing evidence in Iraq of acts that might amount to war crimes, crimes against humanity and genocide.\(^{253}\)

The criminal justice system is reported to be weak and does not meet international and domestic legal obligations in relation to arrest and detention, due process and fair trial standards.\(^{254}\) The authorities’ failure to credibly investigate incidents of torture and deaths in detention and to hold perpetrators accountable, is reported to perpetuate a climate of impunity for these human rights violations.\(^{255}\) The Iraqi authorities are reported to have limited capacity\(^{256}\) to thoroughly investigate human rights abuses committed by ISIS.\(^{257}\) Furthermore, survivors of ISIS abuse, including Yazidis, are reported to not have been able to participate in court proceedings, including as witnesses.\(^{258}\)

In relation to human rights violations and abuses involving the ISF and affiliated forces, including during military campaigns against ISIS, the government is reported to have taken limited steps to investigate and hold to account those found to be responsible and findings of such investigations are rarely made public.\(^{259}\)


\(^{258}\) See Section II.E.1.a (“Human Rights Violations by Iraqi Authorities and Affiliated Forces”).

The ISF, including the local police, continue to be themselves a target of attacks by ISIS, weakening their ability to provide protection to civilians.\(^{260}\) The rule of law is reported to be compromised by the actual and perceived\(^{261}\) corruption in law enforcement agencies and the judiciary.\(^{262}\) In addition to prevailing nepotism, the independence of the judiciary is reportedly also undermined by political pressure from the executive branch and political parties,\(^{263}\) as well as threats, intimidation and attacks against judges, prosecutors, lawyers and, in some cases, their family members.\(^{264}\) Due to a lack of trust in the effectiveness of the formal justice system, many Iraqis are reported to turn to tribal conflict resolution mechanisms.\(^{265}\) Access to justice for women and persons of diverse sexual orientations and/or gender identities is reported to be hampered by patriarchal gender norms that continue to persist among members of law enforcement agencies and the judiciary.\(^{266}\)

---

260 See Section III.A.2 (“Persons Associated with, or Perceived as Supportive of, the Government”).


The Iraqi High Commission for Human Rights (IHCHR)\textsuperscript{267} has, according to observers, been prone to political interference and lacks public trust.\textsuperscript{268}

As per the Laws on Compensation (Law No. 20 of 2009 and Law No. 57 of 2015), the Iraqi authorities will compensate all citizens whose properties were affected by war-related incidents since 2003.\textsuperscript{269} Commissions set up under the law are reported to have received thousands of compensation requests, however, civilians are reported to face serious challenges in navigating the procedures\textsuperscript{270} and no claims for deaths or injuries since 2014 are reported to have been paid out.\textsuperscript{271} Families with perceived ISIS affiliation have, according to reports, been denied security clearance, preventing them from lodging compensation claims.\textsuperscript{272}


\textsuperscript{268} Law 20 of 2009 and Law 57 of 2015 stipulate that all Iraqi citizens affected or harmed by military operations and terrorist actions are entitled to financial compensation. For further background, see HLP Sub-Cluster Iraq, Property Compensation Guidelines Based on Iraqi Law 20, 2009 and Law 57, 2015 (First Amendment), 20 December 2018, https://bit.ly/2GWwM; Center for Civilians in Conflict (CIVIC), "We Hope, but We Are Hopeless" – Civilians’ Perceptions of the Compensation Process in Iraq, https://bit.ly/2Dh6iap; MRGI, Reparations for the Victims of Conflict in Iraq: Lessons Learned from Comparative Practice, November 2017, www.refworld.org/docid/5a1812b44.html. Observers note that Law No. 20 does not encompass the full range of human rights violations and abuses committed during the most recent conflict. Furthermore, Law No. 20 is solely focused on compensation, without consideration of other forms of reparations; MRGI, Reparations for the Victims of Conflict in Iraq: Lessons Learned from Comparative Practice, November 2017, www.refworld.org/docid/5a1812b44.html, pp. 22-23; HRW, Flawed Justice, 4 December 2017, www.refworld.org/docid/5a2651964.html, p. 61. A separate law to compensate Yazidi female survivors of ISIS crimes is under consideration by parliament; see below footnote 547.


\textsuperscript{272} In practice, any perceived affiliation, regardless of the degree, would result in an automatic exclusion from all government services, including compensation; Protection Cluster, Advocacy Note on Property Compensation Scheme in Iraq – Challenges and Recommendations, March 2019, p. 5 [on file with UNHCR]. See also Section III.A.1.b (“Families Associated with Real or Perceived ISIS Members”).
b) Availability of State Protection in the KR-I

Power in the KR-I is largely divided between the two dominant parties, the Erbil-based KDP and the Sualamaniyah-based PUK.\(^{273}\) The region’s armed forces (“Peshmerga”), security, counter-terrorism and intelligence agencies are reported to remain under the political influence of the two parties and/or powerful party officials.\(^{274}\) Effective control of the KRG institutions is reported to be further compromised by the prevalence of corruption\(^{275}\) and nepotism based on family, tribal and party affiliation.\(^{276}\)

Judicial independence is also reported to be hampered by increasing political interference.\(^{277}\) The criminal justice system is reported to be weak and does not meet international and domestic legal standards.\(^{278}\)


274 "The Peshmerga forces of Iraqi Kurdistan are a complex and multi-faceted security organisation, their loyalty divided between the Iraqi state, the Kurdistan Regional Government (KRG), different political parties and powerful individuals. At different times – and sometimes simultaneously – they can be characterised as national, regional, party and personal forces”; Clingendael Institute, Fighting for Kurdistan? Assessing the Nature and Functions of the Peshmerga in Iraq, March 2018, https://bit.ly/2LsaA5, p. 2. Despite efforts to unify and institutionalize party-affiliated Peshmerga forces under the KRG Ministry of Peshmerga Affairs, parts of the forces continue to operate outside the KRG’s control. "Despite the positive steps made to decrease the influence of party politics, they continue to play a decisive role in the Peshmerga’s organisation. The command structure of the Ministry of Peshmerga Affairs’ integrated brigades remains structured according to party affiliation as each brigade is equipped with a commander from one party and a deputy from the other. In addition, the majority of Peshmerga forces has not yet been institutionalised. There are around 100,000 Peshmerga fighters outside the Ministry’s 14 brigades, divided roughly equally between the PUK (the 70s Force) and the KDP (the 80s Force). Both parties’ Peshmerga forces maintain their own organisational and financial structures, and are geographically confined to their party’s traditional sphere of influence. Moreover, the KDP and PUK have retained their own security, intelligence and counter-terrorism forces, whose politicisation is even further entrenched. They are not just divided along party lines, but also by personal loyalties to powerful individuals from the ruling parties, the PUK and the Kurdistan Democratic Party (KDP), Gorran: A Party of Words, not Deeds, 29 October 2018, https://bit.ly/2rNzvX; Al-Monitor, Politicized Peshmerga Adds to Iraqi Kurdistan Destabilization, 30 May 2018, https://bit.ly/2FQq97t; GPPi, Iraq After ISIL – Sub-State Actors, Local Forces, and the Micro-Politics of Control, March 2018, https://bit.ly/2EMLqtt, pp. 23-24; Niasch, Reality Versus the Rules – Kurdish Parties Bend Iraq’s Electoral Rules on Politics with Guns, 8 February 2018, https://bit.ly/2vCo7T9; Friedrich Ebert Foundation, Reforming the Civil-Military Relationship in Kurdistan (Peshmerga), September 2017, https://bit.ly/2BwvXNb.


277 “Last November [2018], one of the Kurdistan Region’s few remaining judges seen as independent announced his resignation as a member of the regional judicial council. Judge Latif Sheikh Mustafa was protesting the intervention of the region’s two main political parties, the Kurdish Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), in the judiciary as well as the failure of the judiciary to act as an independent institution. Mustafa’s resignation comes after four other resignations of senior judges for similar reasons in the past four years”; The Tahrir Institute for Middle East Policy, Judiciary in Kurdistan Region in Peril, 11 January 2019, https://bit.ly/2Fqa7ey. "The Kurdistan region also lacks an independent judiciary. In a survey conducted...
obligations in relation to arrest, detention and fair trial standards. According to reports, perpetrators affiliated with the political or security elite in the KR-I often enjoy impunity for their crimes.

According to reports, KRG courts have not convicted Kurdish forces for any human rights violations or violations of human rights law or IHL.

F. Humanitarian Situation

While the humanitarian situation has stabilized since the end of major military operations against ISIS at the end of 2017, humanitarian needs remain high, with an estimated 6.7 million people, or 18 per cent of the population, requiring some form of humanitarian assistance and protection in 2019, including IDPs, returnees, refugees and vulnerable host communities.

Persons perceived to be


"Another barrier for the implementation of the existing legislation is the protection given by the ruling parties to some perpetrators. In cases where the killer is acquitted due to the lack of evidence, the killer was often helped by the ruling parties. The political parties will only protect their own members, but also influential people, and people who are affiliated with the party. (...) [An academic source] added that if a person gets into a conflict with the security police or the ruling parties, rule of law would not apply. Only a few judges can rule objectively, free of political concerns"; DiS, Kurdistan Region of Iraq (KRI): Women and Men in Honour-Related Conflicts, 9 November 2018, www.refworld.org/docid/5beacadd4.html, pp. 15-16. See also, Ekurd, Human Rights Situation in Iraqi Kurdistan is ‘Getting Worse’: Official, 10 December 2018, https://bit.ly/2UWvPAt; Foreign Policy Research Institute, Systemic Crisis in the Kurdistan Region of Iraq, 8 January 2018, https://bit.ly/2Q1Aqmr; Ekurd, Iraqi Kurdistan Authorities Don’t Believe in Rule of Law, Judge Says, 1 May 2017, https://bit.ly/2R892xr; Open Democracy, Do the People of Kurdistan Live in Security?, 30 January 2017, https://bit.ly/2PIOwWB.


"Protection remains the overarching humanitarian priority in Iraq in 2019 and is at the core of humanitarian response. There are multiple pressing protection concerns, including retaliation against people with perceived affiliations to extremist groups; forced, premature, uninformed and obstructed returns; a lack of civil documentation; severe movement restrictions in camps; arbitrary detention, IDPs and returnees who require specialized psychosocial support; extensive explosive hazard contamination and housing, land and property issues"; OCHA, HRP 2019, 26 February 2019, https://bit.ly/2TyMfM, p. 7.

"The prolonged nature of their displacement has led to increased vulnerabilities among IDPs; in 11 districts, displaced persons are facing a very high severity of needs. (...) Emergency coping strategies are being employed by many vulnerable groups, particularly out-of-camp IDPs"; OCHA, HRP 2019, 26 February 2019, https://bit.ly/2TyMfM, pp. 6-7.


The estimated total number of people in need has decreased from 8.7 million in 2018 to 6.7 million in 2019. Humanitarian actors aim at reaching 1.75 million people with some form of humanitarian assistance in 2019; OCHA, HRP 2019, 26 February 2019, https://bit.ly/2TyMfM.
The majority of those in need of humanitarian assistance are living in areas that have been most affected by conflict or are hosting a sizable displaced population, mainly in Ninewa, Al-Anbar, Salah Al-Din, Kirkuk and Diyala Governorates, as well as in the KR-I. Efforts to rebuild destroyed and damaged infrastructure, restore basic services, and to clear explosive hazards and rubble in areas formerly held by ISIS have begun. However, it is estimated that reconstruction will take “at least 10 years and cost well over $88 billion”. The slow reconstruction and rehabilitation of key infrastructure and associated with ISIS are reported to be among the most vulnerable, along with women, children, people with disabilities and the elderly.

*Women and children whose fathers, husbands, sons, brothers or even distant family members are accused of being members ISIL-affiliated can face grave consequences, and are often subject to discriminatory practices in the provision of and access to humanitarian assistance. Within camps, they can be isolated and segregated, subjected to movement restrictions, denied access to humanitarian aid, and victimized by sexual violence and exploitation. For women and children with perceived affiliations who live outside of camps, these negative impacts are compounded dramatically*; OCHA, *Iraq: Humanitarian Needs Overview 2019* (November 2018), 16 December 2018, https://bit.ly/2CIZSWd, p. 16.


services as well as the widespread contamination with unexploded ordnance are reported to be major impediments to returns. Public anger over unemployment, corruption and the deterioration of public services, particularly electricity, has triggered waves of protests in Baghdad and southern Iraq in 2018.

While overall humanitarian access has improved following the end of major military operations at the end of 2017, humanitarian actors report significant constraints on the timely delivery of humanitarian assistance. Access to humanitarian assistance has been particularly challenging for IDPs outside of camp settings.

The civilian and humanitarian character of IDP camps is reported to be compromised by the presence of armed actors, particularly members of government-affiliated armed groups, resulting in instances of arbitrary arrest, harassment and physical violence against IDPs and humanitarian actors, sexual exploitation and abuse, as well as denial of humanitarian assistance.

As a result of conflict, displacement and confiscation of documents, many IDPs and returnees do not hold legal documentation, restricting access to basic services, limiting freedom of movement, and increasing the risk of arbitrary arrest. Persons associated with actual or perceived ISIS members are denied civil documentation on account of their imputed political opinion. In 2019, an estimated 2.1 million children may be at serious risk of not being able to access essential services due to lack of civil documentation.

---

295 “The scale, scope and complexity of the explosive contamination in Iraq’s liberated areas is significant, and exceeds existing and available national explosive hazard management capacities. Improvised explosive devices (IEDs) in Iraq is unprecedented, occurring in both urban and rural environments, cleverly concealed with the intention to maim and kill not restricted to combatants in a conflict. Security forces and civilians alike continue to suffer heavy losses as a result of the widespread use of these devices”; United Nations Mine Action Service (UNMAS), A Snapshot of Clearance – Progress Made in 2018 and Moving On, accessed 30 April 2019, https://bit.ly/2PfB1Zs. “Civilians – particularly men and boys – remain at grave risk due to limited understanding of explosive hazard risks, while access to victim assistance remains uneven across Iraq”; OCHA, Humanitarian Needs Overview 2019 (November 2018), 16 December 2018, https://bit.ly/2C1SZWd, p. 29.

296 See Section II. C (“Forced Displacement and Returns”).


299 “The majority of the humanitarian response to date has focused on serving people displaced in camps, although this population accounts for only 29 per cent of the IDP population overall. (…) Expanding assistance to out-of-camp population, particularly in 20 prioritized districts with the highest density of displaced people, is a priority for 2019”; OCHA, HRP 2019, 26 February 2019, https://bit.ly/2Ty1bMb, pp. 9, 27. “It is estimated that aid reaches only 10 per cent of the remaining 1.5 million who live outside of camps”; OCHA, Iraq: Humanitarian Needs Overview 2019 (November 2018), 16 December 2018, https://bit.ly/2C1SZWd, p. 22.


1) Shelter

Iraq’s chronic housing shortage is reported to have been exacerbated by years of conflict and the resulting massive destruction of housing. Those with fewer resources are often forced to occupy sub-standard and overcrowded living quarters with no or little access to basic services and without any security of tenure or protection from eviction. It is estimated that more than 3.3 million people, or 13 per cent of the population, live in informal settlements, mainly in Baghdad and Basrah Governorates.

The majority (61 per cent) of IDPs are reported to live in private settings either in rented apartments or with host families, while 31 per cent are hosted in camps, and eight per cent live in so-called “critical shelters” such as unfinished or abandoned buildings, schools, religious buildings, and informal settlements. In areas of displacement and return, rents have increased due to heightened demand, resulting in the renewed displacement of those that cannot afford the costs.

Having documentation, including on account of their association with actual or perceived ISIS members, see Section III.A.9 (“Children with Certain Profiles or in Specific Circumstances”).

“(…) since the middle of the 1980s, Iraq has suffered from instability and wars, which has led to a continued deterioration in its housing sector (UN-Habitat, 2003). Currently, there is low housing production and housing shortage of around 1-1.5 million housing units, which is equally in its number to around one-quarter of the country’s total housing stock”; Omar Al-Hafith, Satish B.K., Simon Bradbury, Pieter de Wilde, A Systematic Assessment of Architectural Approaches for Solving the Housing Problem in Iraq, 6 October 2018, https://bit.ly/2OFvRqv.

The Iraqi Government estimates that over 138,000 residential buildings were impacted by the conflict, with half of them destroyed beyond repair, affecting at least 400,000 people. The recovery and reconstruction of the housing sector in the seven governorates affected by conflict, i.e. Al-Anbar, Babel, Diyala, Kirkuk, Ninewa, Salah Al-Din, and Baghdad, is estimated to require over USD 17.4 billion; World Bank, Damage and Needs Assessment of Affected Governorates, January 2018, https://bit.ly/2iMQoi, pp. iv, vi, xv. See also, UN Habitat, Housing Damage and Rehabilitation Database (September 2018), 1 September 2018, https://bit.ly/2EPqQse, p. 1.

UN Habitat/UNICEF, Iraq: Key Facts (February 2018), https://bit.ly/2NNiNM3, p. 4. “The ministry’s [Ministry of Planning] data indicated that there were 3,687 slum communities in 12 governorates. With a population of 8 million, Baghdad leads the list with 1,000 slums, followed by the province of Basra (about 3 million inhabitants) with 700 slums. The provinces of Najaf and Kerbala close the list with 89 slum areas”; The Arab Weekly, The Slums of Mesopotamia, 18 December 2018, https://shar.es/aaTYXn.


conditions reportedly remain a critical concern for many IDPs outside of camps. \(^{311}\) IDPs, particularly those living in informal settlements, are vulnerable to forced evictions by local authorities or private property owners. \(^{312}\) As camps were built and are managed by different actors, standards of accommodation vary greatly, ranging from upgraded shelters (e.g. caravans and residential housing units) to emergency shelters (tents with or without cement base). \(^{313}\) IDPs living in camps and informal settlements are particularly exposed to extreme weather conditions. \(^{314}\) The closure of IDP camps has resulted in the premature and, at times, forcible returns of IDPs to their areas of origin and/or secondary displacement. \(^{315}\)

The vast majority of IDP returnees are reported to have returned to a former residence that is in good condition. Others however are living with host families or in rented accommodation while 130,000 returnees are living in critical shelters. \(^{316}\) Damaged and destroyed housing as well as unresolved HLP issues are reportedly a major impediment to the return of IDPs. \(^{317}\)

### 2) Livelihoods

Years of conflict and the decline in oil prices have reportedly led to a rapid increase in poverty, \(^{318}\) particularly in conflict-affected areas and in areas hosting large numbers of IDPs. \(^{319}\) Despite an

---


More than 20,000 households are estimated to be in need of tent replacement and are exposed to harsh climatic conditions. Furthermore, “[i]n many of these camps, overall minimum service standards have not significantly improved from the initial emergency phase due to lack of investment and upgrades. The large caseload, protracted nature of displacement, and age of the camps (some camps are over four years old, particularly in Dahuk), are also contributing factors”; OCHA, HRP 2019, 26 February 2019, https://bit.ly/2YgbNbf, pp. 8, 17. Fifty per cent of in-camp IDP households surveyed were found to be in need of shelter assistance; REACH, Multi-Cluster Needs Assessment (MCNA) – In-Camp IDPs, September 2018, https://bit.ly/2CwIpsP, p. 4. See also, Foreign Policy, Among Displaced Iraqis, One Group Is Worse Off than the Rest, 29 April 2019, https://bit.ly/2J77jBw; The New Humanitarian, As Displacement Runs to Years, Northern Iraq Camps Need an Overhaul, 25 February 2019, https://bit.ly/2Xpq1SY; WFP/UNHCR, Joint Vulnerability Assessment June 2018, 2 August 2018, https://bit.ly/2Dyl1dn, p. 48.


In Baghdad and Diyala Governorates, as many as 10 and 12 per cent of returnees, respectively, are reported to be living in critical shelters. In absolute numbers, of those living in critical shelters, 85 per cent are in three governorates: 41 per cent in Nineawa, 24 per cent in Salah Al-Din and 20 per cent in Diyala Governorate. In some locations, more than 70 per cent of returnees are living in critical shelters; IOM, DTM Round 108 – February 2019, 20 March 2019, http://bit.ly/2jW0MF7, p. 4. See Section II.D.3.a (“Obstacles to Return”).

“Starting in 2014, Iraq suffered a series of shocks, including the war against the Islamic State of Iraq and Levant (ISIL) – which used to control one third of Iraq’s territory – the internal displacement of millions of people, a sharp decrease in oil prices and, more recently, the challenges associated with the return of refugees and internally displaced people to areas liberated from ISIL occupation. As a result, living conditions in Iraq have deteriorated, and a large proportion of the population has fallen into poverty”; UNDP, Policy in Focus – Social Protection: Meeting Children’s Rights and Needs, Vol. 15 (3), December 2018, https://bit.ly/2D0ux1E, p. 16.

While in 2012 the national poverty rate stood at 18.9 per cent, it reportedly rose to 22.5 per cent in 2014, meaning that an additional three million Iraqis were pushed into poverty. In areas most affected by conflict, the poverty rate exceeded 40 per cent
improved economic outlook following the end of major military engagements, the poverty rate in conflict-affected areas has reportedly not come down.326 For many households, employment does not offer a pathway out of poverty.327 Children are reported to comprise the largest share of people living in poverty.328

The 2014-2017 conflict is reported to have reversed a decline in unemployment.329 Unemployment is particularly high among women330 and youth.331 Recruitment in the public sector is dominated by nepotism and cronyism along family, tribal, ethno-sectarian, and political lines.332


Currently, the unemployment rate, which was falling before the arrival of ISIL, has climbed back to 2012 levels. Almost a quarter of the working-age population is underutilized, i.e., they are either unemployed or underemployed”; OCHA, "Iraqi Humanitarian Needs Overview 2019 (November 2018)," 16 December 2018, https://bit.ly/2C1Z5Wd, p. 10. See also below “Education”.

The efficiency of government institutions, as well as public administration, suffers from a distribution of positions according to ethnosectarian lines, which inhibits meritocratic job allocation. (...) clientelism and ethnosectarian considerations hamper the development of a meritocratic culture in the state’s administration. While some institutions have introduced competitive recruitment procedures, both recruitment and dismissals have been generally politically motivated”; Bertelsmann Foundation, BTI 2018 Country Report – Iraq, 2018, www.econsoc.net/en/file/local/1427413/488298_en.pdf, pp. 14, 30. “For minorities living in the KRI or areas under the de-facto control of the Kurdish authorities, access to public sector jobs is often conditioned on support for the aims of the major Kurdish political parties”; MRGI, Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) – Review of the Periodic Report of Iraq, 2018, http://bit.ly/2VksYo, para. 18. See also, ICG, A New Generation of Activists Circumvents Iraq’s Political Paralysis, 5 March 2019, https://bit.ly/2RJLzL.
Access to employment and livelihood opportunities remains a particular challenge for IDPs and returnees, which in turn affects their ability to access food, shelter, health, education and utilities. Access to government social programmes such as the monthly public distribution system (PDS) and the Cash Transfer Social Protection Programme is reported to remain challenging. Many IDPs are reported to incur debts and/or to resort to negative coping mechanisms to address their most basic needs. The lack of income has been cited as an obstacle for returns as well as a reason for the renewed displacement of returnees.

Much of the population in Basrah and other parts of southern Iraq relies on agriculture as a main source of income; however, due to a persistent water crisis, the livelihoods of many farmers have reportedly been disrupted, leading to significant population movements from rural to urban areas in the region.

3) Food Security

The impact of the 2014-2017 conflict on agricultural production and food security continues to be severe. The conflict resulted in the extensive loss of livestock, damage to agricultural tools and machinery, and the widespread contamination of agricultural land by unexploded ordnance. Compared to pre-conflict levels, agricultural production capacity has reportedly been reduced by an estimated 40 percent. Reduced purchasing power due to limited livelihood opportunities and

---


331 “Of those able to be credibly assessed, it is estimated that 24 per cent of IDP families are using emergency negative coping mechanisms to address their most basic needs, including children dropping out of school to work, criminal acts, child marriage and forced marriage. More than 60 per cent of the affected people surveyed reported incurring debt, the majority for meeting basic needs; the average amount of debt per household is 2.2 million IQD (equivalent of US$ 1,800).” And further: “Resort to survival sex has become all too common, due to limited economic opportunities and gaps in assistance”; OCHA, Iraq: Humanitarian Needs Overview 2019 (November 2018), 16 December 2018, https://bit.ly/2CIZSWd, pp. 4, 29. See Section II.D.3.a (“Obstacles to Return”).

332 “The agricultural sector has been a major source of livelihoods for over 70% of the rural communities throughout the [Basrah] governorate and is the largest single source of rural employment. (…) Due to the disruption of the agricultural sector, as a direct result of climate change, including lower river levels, increased water salinity and reduced rainfall, large numbers of farmers and seasonal workers are now without livelihood opportunities. This has triggered significant population movements from rural to urban areas in the region, as people seek alternative livelihood opportunities. The majority of these people lack appropriate skills to secure formal employment. Women are further adversely affected in securing alternative livelihood options, as they are not permitted to work in the market, due to cultural constraints”; NRC, Basra Fact Finding Mission Report #3, 19 October 2018, https://bit.ly/2RknLG, p. 4. See also, Al Bawaba, The Decimation of the Fertile Crescent’s Marshlands is Destabilizing Iraq, 4 February 2019, https://bit.ly/2lTqgi; The Independent, Iraq Water Shortages Could Force Four Million People to Flee Their Homes, 8 October 2018, https://ind.pn/2C9wYt1; MEE, Drought, Dams and Dry Rivers: Iraqi Farmers Are Giving Up Hope, 18 September 2018, https://shar.es/a1MsBM.


335 “Prior to ISIL taking control of central and northeastern Iraq in 2014, crop production (…) in Ninewa and Salah al-Din provided nearly 70 percent of household income. Around 70 to 80 percent of maize, wheat and barley growing areas were damaged or destroyed in Salah al-Din. In Ninewa, 32 percent of land dedicated to wheat cultivation was badly damaged and 68 percent was lost. Only about 20 percent of farmers are thought to have access to irrigation compared with 65 percent prior to the crisis”; FAO, Humanitarian Response Plan 2018, 2 August 2018, https://bit.ly/2yLhqb8, p. 2.”
inconsistent provision of food rations through the PDS, particularly in formerly ISIS-held areas, are reported to limit people’s access to food. Consequently, an estimated two million persons are considered to be food insecure. The majority (60 per cent) of food-insecure people live in formerly ISIS-controlled areas, with women-headed households being among the most vulnerable. Vulnerable households reportedly resort to negative and unsustainable coping strategies such as reducing meal size and frequency, or incurring debts.

4) Health

Over the past decades, Iraq’s public health care system has seen a steady decline as a result of cycles of conflict, years of economic sanctions, funding shortfalls, corruption and neglect. The conflict against ISIS severely damaged or destroyed many healthcare facilities and despite the rehabilitation of part of these facilities, capacity has not yet reached pre-war levels.


The health status of Iraq’s population has suffered major blows due to decades of war and economic sanctions. (…) Health services have deteriorated and the sector has faced continuous shortages in drugs and other supplies. Moreover, the current ongoing conflict and poor security situation has further damaged the country’s health infrastructure. Many health professionals have fled for safety to neighboring countries and the population’s access to basic health services has become increasingly impaired”; WHO, Iraq – Primary Health Care, accessed 30 April 2019, https://bit.ly/2rHYfue. “Life expectancy in Iraq stands at around 69 years, a figure that is below comparative countries and the MENA average of 73 years. While life expectancy has increased since the 1960s, growth seems to have stagnated in the last decade, likely due to ongoing conflict in the country. Iraq’s maternal and child health indicators have not achieved the millennium development goals (MDGs). Malnutrition is emerging as an important public health challenge particularly for children under the age of five”; World Bank, Damage and Needs Assessment of Affected Gorvernates, January 2018, https://bit.ly/2ThQ0Ir, p. 20. See also, EPIC, Iraq’s Public Healthcare System in Crisis, 7 March 2017, https://bit.ly/2DvH6T.

As at late 2018, one third of hospitals and 14 per cent of primary health care centres (PHCCs) are reported to be destroyed in Nineva Governorate, while 35 per cent of PHCCs in Kirkuk Governorate are not functional. In Al-Anbar Governorate, 17 per cent of hospitals are only partially functioning; OCHA, 2018 Humanitarian Needs Overview (November 2018), 16 December 2018, https://bit.ly/2Ciz5Wo, p. 33. “During the conflict, nine out of 13 public hospitals were damaged in Mosul, slashing healthcare capacity and the number of hospital beds by 70 per cent. The reconstruction of health facilities has been extremely slow and there are still less than 1,000 hospital beds for a population of 1.8 million people. This is half of the internationally-recognised minimum standard for health service delivery in a humanitarian context”; MSF, A Year on from Battle, Mosul’s Healthcare System Is still in Ruins, 9 July 2018, https://bit.ly/2F0eEqy. “Partners have rehabilitated more than 50 percent of primary healthcare facilities while others, including hospitals that offer secondary and tertiary services remain closed”; WHO, Iraq: Situation Report Issue Number 6, 1 September-30 September, 30 September 2018, https://bit.ly/2y9j6F3, p. 2. “In terms of damages to those facilities, with the exception of Tal Afar, Al-Muqaddada (Ibid), and Al-Ramadi, all other cities have at least half of their facilities either partially or fully damaged. (…) Tal Afar, Al-Muqaddada (Ibid), and Al-Ramadi seem to be exceptional cities with 50 percent of more of their facilities incuring no damage”; World Bank, Damage and Needs Assessment of Affected Governorates, January 2018, https://bit.ly/2iOQ0Ir, p. 20. See also, The Arab Weekly, Medical Doctors, a Disappearing Profession in Iraq, 31 March 2019, https://bit.ly/2Gz9OsC; The New Arab, Two Hospitals Reopen in War-Damaged Iraqi City Mosul, 9 September 2018, https://bit.ly/2CgnRo9; The National, Charred and Understaffed, Ramadi Hospital still Bears the Scars of ISIS, 27 June 2018, https://bit.ly/2M8YDgk; Reuters, Health System in Mosul Remains Broken one Year after Defeat of Islamic State, 17 July 2018, https://reut.rs/2zInqOy.
Public health facilities are often poorly maintained and recurring shortages of medicines are a major concern, as is the lack of qualified health workers. Conditions are relatively better in the KR-I, however, the region’s health care infrastructure has been overstretched as a result of high numbers of displaced persons, and the rise in conflict-related injuries and disabilities.

In areas retaken from ISIS, poor hygiene due to a lack of water and electricity, damaged buildings and the presence of IEDs also pose a risk to people’s health and increase the need for healthcare. The lack of health services is among the reasons described as an obstacle for returns.

The conflict against ISIS resulted in many individuals becoming physically and mentally traumatized or disabled. However, significant gaps in the provision of mental health and psychosocial support have been reported, including, *inter alia*, as a result of an acute shortage of psychiatrists and mental health professionals.

5) Education

The most recent conflict is reported to have resulted in a further deterioration of Iraq’s education system. In areas affected by conflict, a quarter of children are reported to have limited or no access below footnote 453.

---


to formal learning opportunities. This affects in particular IDPs and returne children. In these areas, many school facilities are reported to have been damaged or destroyed, while others have been severely degraded after years of conflict, neglect and lack of investment.

Schools across the country are reported to lack basic facilities and access to electricity and water. Furthermore, schools suffer from overcrowding and a shortage of qualified teachers, textbooks and teaching materials. The shortage of adequate school facilities means that many schools have to run multiple shifts, further compromising educational standards.


School enrolment and attendance rates are reported to be the lowest in the southern governorates, which remain the poorest of the country, as well as in conflict-affected Al-Anbar and Nineawa Governorates. Poverty and inability to pay for education-related expenses are reported to be among the main reasons for children to drop out of school. The ratio of school-dropouts is particularly high among adolescents and girls. Lack of access to and participation in education increases the risks for children and youth to be exposed to child labour, recruitment by armed groups, child marriage and psychosocial distress.

Children without official documentation, including those belonging to families associated with actual or perceived ISIS members, are regularly prevented from accessing education.

6) Water, Sanitation, and Electricity

In areas affected by conflict, water and sanitation infrastructure has been severely damaged, while in areas of displacement, available systems have been overwhelmed by the increased demands. Across the country, the situation is further compounded by the reported water scarcity and economic hardship, insufficient schools in rural areas and lack of transportation are just some of the factors that are keeping children from disadvantaged backgrounds from receiving an education that can transform their lives and that of their communities.


"Gender gaps remained high, with girls more likely to experience poor access and remain out of school. (…) Concerns with girls’ safety on their journey to school and the introduction of practices, such as early marriage, have resulted in higher dropout rates for girls and an underrepresentation of girls in both primary and secondary schools"; World Bank, Damage and Needs Assessment of Affected Governorates, January 2018, https://bit.ly/2ihQ0l, p. 25. See also, OCHA, Iraq: Humanitarian Needs Overview 2019 (November 2018), 16 December 2018, https://bit.ly/2CZ5Swd, p. 50. See also, Asia Times, In Mosul, Children out of School and at Risk of Recruitment, 6 November 2018, http://atimes.com/voLljp.

See Sections III.A.1.b ("Families Associated with Real or Perceived ISIS Members") and III.A.9 ("Children with Certain Profiles or in Specific Circumstances").

"In areas affected by conflict, water, sanitation and hygiene (WASH) infrastructure has seen massive damage and destruction: ‘Overall, a total of 1,468 facilities were identified in the 31 most damaged cities in Anbar, Diyala, Ninawa, and Salah Al-Deen, and across Babel, Baghdad, and Kirkuk. Of these facilities, it has been reported that 1,359 were completed destroyed and 369 were partially damaged. (…) Ninawa has the highest damage percentage, followed by Anbar, and Kirkuk”; World Bank, Damage and Needs Assessment of Affected Governorates, January 2018, https://bit.ly/2ihQ0l, p. 94.


inadequate infrastructure such as wastewater treatment facilities. Affected populations have insufficient access to potable water and adequate sanitation services, exposing them to the risk of waterborne diseases. Low water levels are reported to contribute to an increase in salinity, making water unsuitable for consumption and agricultural usage.

The reliability of electricity supplies, already low due to dilapidated infrastructure, is reported to have further deteriorated as a result of conflict-related damage to and destruction of electricity infrastructure. Insufficient public power supplies are reported to have adverse impacts on the functioning and recovery of the health, water and sanitation, education, and telecommunications sectors. Frequent power outages force many Iraqis to rely on electricity from privately-operated diesel generators, posing a significant financial burden.

*There are only 26 central wastewater treatments plants in Iraq, nine of which are either non-functioning or only partially working. Some governorates such as Nineawa, Kirkuk, Diyaful, Basrah and Wasit do not have any wastewater treatment plants. Within Baghdad governorate, 1.5 million tons of untreated sewage are reportedly dumped in the Tigris river every day due to lack of wastewater treatment facilities*; OCHA, Iraq: Humanitarian Needs Overview 2019 (November 2018), 16 December 2018, https://bit.ly/2CI96e1, p. 36. See also, AFP, Despite Full Reservoirs, Iraq Water Woes Far from over, 1 May 2019, https://shar.es/a0nx30; World Bank, Damage and Needs Assessment of Affected Governorates, January 2018, https://bit.ly/2hQO1r, p. 94.

*Half of all Iraqi households are at risk of drinking contaminated water and less than 40 per cent of the population has access to drinking water at home, placing children at grave risk of waterborne diseases*; UNICEF, Deep Inequality Continues to Shape the Lives of Children in Iraq, 19 November 2018, https://unct.i/c2R9Y1HG. “Across all governorates, the percentage of households that had access to water has varied from 40 to 60 percent. However, in cities like Al-Ramadi, Bayqee, Bakhthida, Al-Ba’aj, and Al-Hatra, 20 percent or less of households have access to water, causing households to depend on water trucks for clean water”; World Bank, Damage and Needs Assessment of Affected Governorates, January 2018, https://bit.ly/2hQO1r, p. 94. See also, OCHA, HRP 2019, 26 February 2019, https://bit.ly/2TyfbMf, p. 8.

*Reports from the Ministry of Environment indicate that bacteriological contamination of surface water varies between governorates, ranging from 3 per cent up to 35 per cent; in Basrah over 70 per cent of water sources are contaminated*; OCHA, Iraq: Humanitarian Needs Overview 2019 (November 2018), 16 December 2018, https://bit.ly/2CI96e1, p. 36. “The vulnerable populations remain concentrated in camps, informal settlements and within host communities which often pose the risk of exposure to and transmission of communicable diseases, including cholera because of crowded living conditions. Furthermore, people, who are living in newly retaken areas and returnees to East Mosul and other retaken towns and villages across Iraq may also be considered to be at risk of cholera due to infrastructure damages that limit access to safe water and sanitation as well as healthcare”; Health Cluster Iraq/WASH Cluster Iraq, Iraq Health and WASH Cluster Acute Diarrheal Disease (Including Cholera) Preparedness and Response Plan, October 2018, https://bit.ly/2CI96e1, p. 3. See also, Xinhua, Hundreds Affected by Pollution in Iraq’s Salahadin Province, 5 April 2018, https://bit.ly/2FL41Wn.

“(…) in the five southern governorates, it is expected that the water scarcity will increase over the coming months, putting about 25 percent of this 2 million population at risk of experiencing water service outage, water-borne related diseases and possible displacement”; UNAMI, Special Representative of the United Nations Secretary-General for Iraq – Briefing to the Security Council by SRSG Ján Kubiš, 8 August 2018, https://bit.ly/2wVY7gI. “In some areas the water is so heavily salinated that it can no longer be used for agricultural purposes”; Clingendael Institute, More than Infrastructures: Water Challenges in Iraq, July 2018, https://bit.ly/2sNb5sU, p. 6. See also Sections II.D.1 (“Internal Displacement”) and II.F.2 (“Livelihoods”).


“(…) over 55 percent of critical infrastructure (…) were partially damaged, and a further 33% were completely destroyed. Seventeen power plants were destroyed or sustained partial damage as a result of intensive ground fighting, artillery shelling, aerial bombardment, and looting. In addition, 14 percent of transmission network towers have been destroyed and need to be reinstallered. Infrastructure damage has been extensive in many governorates, with access to the public electricity network in associated cities significantly low or non-existent. (…) The assessment suggests that currently six cities are without access to public electricity service, and four cities continue to experience relatively low levels of public network power access, varying by neighborhood”; World Bank, Damage and Needs Assessment of Affected Governorates, January 2018, https://bit.ly/2hQO1r, pp. 72, 73.

“Iraq can produce a total of around 16,000 megawatts of electricity. That is far below demand, which hovers around 24,000 MW but can jump to 30,000 in summer, when temperatures reach a sizzling 50 degrees Celsius. Much of the shortfall is technical: when Iraq transmits power, 30 to 50 per cent gets lost to poor infrastructure, according to the Iraq Energy Institute (IEI)”*; AFP, Iraq Seeks Power Revamp to Head Off Sanctions and Protests, 28 November 2018 https://bit.ly/2PHzqTA. World Bank, Damage and Needs Assessment of Affected Governorates, January 2018, https://bit.ly/2hQO1r, p. 73.

In areas with a continued ISIS presence, the group is reported to target water and oil infrastructure, as well as electric towers and transmission lines, resulting in power outages in the affected areas.\[^{376}\]

### III. Assessment of International Protection Needs of Asylum-Seekers from Iraq

#### A. Refugee Protection under the 1951 Convention Criteria and Main Categories of Claims

UNHCR considers that international protection needs may arise for individuals falling in one or more of the risk profiles outlined in this Section, depending on the individual circumstances of the case. However, the profiles listed here are not necessarily exhaustive; they are based on information available to UNHCR at the time of writing. A claim should not automatically be considered as without merit simply because it does not fall within any of the profiles identified here.

Depending on the specific circumstances of the case, family members or persons otherwise closely associated with persons of these profiles may also be in need of international protection on the basis of their association with individuals at risk.

Where relevant, particular consideration needs to be given to any past persecution to which applicants for international protection may have been subjected. Certain claims by asylum-seekers from Iraq, including of those possibly falling within risk profiles described in these international protection considerations, may require examination for possible exclusion from refugee status (see Section III.D).

All claims lodged by asylum-seekers need to be considered on their merits according to fair and efficient status determination procedures and up-to-date and relevant country of origin information, whether they are assessed on the basis of the refugee criteria in the 1951 Convention, the refugee definitions in regional instruments, UNHCR’s mandate, or complementary forms of protection based on broader international protection criteria.

The status of recognized refugees should be reviewed only if there are indications, in an individual case, that there are grounds for:

(i) Cancellation of refugee status which was wrongly granted in the first instance;
(ii) Revocation of refugee status on the grounds of Article 1F of the 1951 Convention; or
(iii) Cessation of refugee status on the basis of Article 1C(1-4) of the 1951 Convention.

UNHCR considers that the current situation in Iraq does not warrant cessation of refugee status on the basis of Article 1C(5) of the 1951 Convention.

---

1) Persons Wrongly Suspected of Supporting ISIS

a) Civilians Perceived to Be Supporting ISIS

Individuals of mostly Sunni Arab identity, and particularly, but not exclusively, men and boys of fighting age from formerly ISIS-held areas, are reported to collectively be suspected of being affiliated with, or supporting ISIS. Since 2014, civilians of this profile have regularly been subjected to a range of retaliatory acts of violence and abuses at the hands of state and non-state actors, including during anti-ISIS military operations, during and after flight from ISIS-held areas, following the retaking of these areas, as well as during ongoing security operations against ISIS remnants.

As a general rule, criminal action against persons reasonably suspected of criminal acts is entirely legitimate but must be in line with relevant legislation and must respect due process requirements. However, observers note that the ISF, affiliated forces and Kurdish security forces regularly impute an ISIS affiliation to individuals on the basis of broad and discriminatory, often overlapping criteria, including:

- Religious and ethnic background (Sunni Arab or Turkmen);
- Sex and age (men and boys of fighting age);
- Family and tribal background, including place of origin; and/or
- Residency in a formerly ISIS-held area at the time of ISIS control.

A suspicion of involvement with ISIS is regularly raised against persons of these profiles without regard to the nature of their involvement, i.e. whether it was voluntary or forced and of a civilian or military nature.

377 There is reported to be "(...)

378 "Under the guise of fighting terrorism, Iraqi forces arbitrarily detained, ill-treated and tortured, and disappeared mostly Sunni men from areas where ISIS was active (...): HRW, World Report 2019 – Iraq, 17 January 2019, www.ecoi.net/en/document/2002196.html. "There is a widespread assumption in Iraq that simply living in the Islamic State-controlled territory was an act of support for terrorism"; Washington Post, How the Iraqi Crackdown on the Islamic State May Actually Increase Support for the Islamic State, 7 January 2019, https://wapo.st/2M7roKh. "[Nearly] all the cases Human Rights Watch documented for this report were Sunni Arab males. Their families all said that they believed the disappearances took place because of their religious, tribal or familial identity, which Iraqi forces used to impute a sympathy for ISIS and Al-Qaeda. Human Rights Watch is not aware of specific evidence linking the individuals disappeared to ISIS. (...) All of the disappearances at checkpoints but one targeted individuals who are from or lived in areas that were under ISIS control for varying periods of time between 2014 and 2017"; HRW, Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538050350_2709.pdf, p. 3. "The lawyers all said that officers automatically viewed certain people as ISIS-affiliated based on where they are from or their tribe or family name, or whether they or their relatives show up on a set of databases of those 'wanted' for ISIS affiliation"; HRW, Iraq: Officials Threatening, Arresting Lawyers, 12 September 2018, www.refworld.org/docid/5b0a0bd2e4.html. "The Iraqi government’s approach to individuals associated with the Islamic State is widely perceived as collectively punishing Sunni civilians who happened to live and work in areas that were captured by the group"; Lawfare, Iraq’s Harsh Approach to Punishing Islamic State ‘Collaborators’ Stands to Have Counterproductive Consequences, 11 June 2018, https://bit.ly/2K3voip. "Many civilian residents of IS-controlled territory and relatives of IS members had no choice but to cooperate with the group because opposition was equated with ‘apostasy’ and therefore punishable by death. When IS retreated from Iraqi territory in 2017, it left behind a population that Iraqi authorities now overwhelmingly regard as complicit in terrorism (...). Men, women, and children have been detained by Iraqi and KRG authorities on suspicion of association with IS simply based on demographic traits (being a fighting-age male) or spatial proximity to Mosul and other contested areas"; UNU-CPR, The Limits of Punishment, May 2018, https://bit.ly/2z6nQC, pp. 4, 22. "Traditionally, the social contract of tribalism holds that an attack on one member is an affront to all. In the current environment, the contract has flipped: Tribes stand accused of working with ISIL due to individual members or families siding with the extremists"; War on the Rocks, Baghdad Must Seize the Chance to Work With Iraq’s Tribes, 17 January 2018, https://bit.ly/2PolHzW.

While the number of Sunni Turkmen is much smaller than that of Sunni Arabs, similar considerations apply in both cases. Sunni Turkmen are reported to be regularly considered to have sided with ISIS when it took over Turkmen-majority areas, including the town of Tal Afar (Ninewa), in 2014. "Many in Nineveh accuse the Sunni Turkmen of Tal Afar to be hard-core members and supporters of ISIS, and al-Qaida before that"; United States Institute for Peace (USIP), With Key Iraqi Province Retaken from ISIS, What’s Next?, 1 September 2018, https://bit.ly/2w57UL9. See also, MRG, Turkmen, updated November 2017, https://bit.ly/2AmCFt; Al Jazeera, Iraq’s Turkmen Mobilise for a Post-ISIL Future, 13 February 2017, https://bit.ly/2PSMMrP.
Individuals linked to ISIS, whether they were fighters, civilian collaborators or mere residents of ISIS-controlled territory, have been stigmatised by local communities, tribal authorities and state-allied forces; UNU-CPR, A Will to Punish – The Shia View of Dealing with ISIS Suspects in the Hands of Iraqi Justice, July 2018, https://bit.ly/2JVFhda, p. 5. “In general, the Iraqi government has been unwilling to differentiate between the many different types of affiliates: civilian residents of Islamic State-controlled territory who were required to pay taxes to the group, civilian employees of Islamic State-run institutions (…), Islamic State fighters, or relatives of the group’s civilian employees and fighters. Nor does it recognize variation in their culpability”; Lawfare, Iraq’s Harsh Approach to Punishing Islamic State ‘Collaborators’ Stands to Have Counterproductive Consequences, 11 June 2018, https://bit.ly/2K3v0pL. See also, The Independent, Mosul’s Sunni Residents Face Mass Persecution as ISIS ‘Collaborators’, 13 July 2017, https://ind.pn/2iAQ0c.

“The US Defense Department estimated that 3,000-5,000 ISIS fighters defended Mosul, one of the group’s strongholds, but according to senior Iraqi intelligence officials, lists of ISIS suspects reportedly grew to include approximately 100,000 names. The lists include people who were suspected of involvement with ISIS in any capacity, including support functions such as drivers or cooks. Some on the list may have had no involvement with ISIS at all, but be under suspicion because of family members’ involvement, or because community members suggested names for the lists based solely on personal or local grievances”; HRW, “Everyone Must Confess”, 6 March 2019, http://bit.ly/2JdtlqJ. “Some police officers arrest civilians solely on the basis of information from secret informants. This practice increases the likelihood of civilians being falsely accused and facing lengthy pre-trial detention in overcrowded facilities where there is a risk of ill-treatment and coerced confession”; CIVIC, Mosul: Civilian Protection Challenges Post-ISIS, May 2018, https://bit.ly/2PVjzJo, p. 3. “Wanted lists are poorly sourced and widely recognised as inaccurate. Different Iraqi security forces maintain their own wanted lists and make little effort to communicate or cross-check their respective intelligence. (…) Individuals may be arrested based on similarity between their surname and one that appears on a wanted list”; UNU-CPR, The Limits of Punishment, May 2018, https://bit.ly/2zIl6nQC, p. 22. “Although the vetting database contains the names of individuals, a prescription of guilt is made against the entire family – up to the fourth degree in some instances. This means that relatives as distant as a great uncle or first cousin may find themselves marked as an ISIL affiliate, no matter their own actions or their actual connection to the primary suspect”; POMEPS, Legal Pluralism and Justice in Iraq after ISIL, 10 September 2018, https://bit.ly/2rpzPqw. See also p. 23 of the same report. “Authorities routinely arrest people with little evidence other than their names matching those on a list of fugitives. Many Mosul residents avoid passing checkpoints out of fear that their names will appear on such lists in error”; Washington Post, Mosul Residents Say Corruption Rises after Islamic State’s Fall in Iraq, 30 December 2018, https://go.shr.lc/2GCAnDH. See also, Foreign Policy, Among Displaced Iraqis, One Group Is Worse Off than the Rest, 29 April 2019, https://bit.ly/2JlJ8BW; AP, A Neighbor’s Word Can Bring Death Sentence in Iraq IS Trials, 9 July 2018, https://bit.ly/2XRvFqr; HRW, Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017, 27 September 2018, www.ecoi.net/en/file/local/1444517/1788_1538950350_2709.pdf, pp. 9, 23-50; AFP, In Mosul, Hundreds Fear Arrest for Sharing Names with Jihadists, 3 March 2018, http://f24.my/2buvtT.


Persons suspected of involvement with ISIS, including persons who were not involved in violent acts, or who were forced to cooperate with ISIS, were economically dependent on keeping their job in the public sector (e.g. civil servants, doctors in public hospitals, teachers) under the ISIS administration, or who were merely living in an area while it was under ISIS control, are at risk of arbitrary arrest, enforced disappearance, torture and other forms of ill-treatment, extra-judicial killings, and unfair trials that can result in the death sentence on account of their alleged affiliation or support for ISIS.386

Entry and residency restrictions, including sponsorship requirements, are reported to remain in place in several governorates. Such restrictions are often based on discriminatory and broad criteria such as perceived association with ISIS on account of a person’s ethnic, religious, and/or tribal background or area of origin. 387

b) Families Associated with Actual or Perceived ISIS Members

Families, and in particular women and children, associated with actual or perceived ISIS members on account of their family or tribal relations, are reported to be subjected to a range of human rights violations and abuses at the hands of local authorities, the ISF and affiliated forces, local militias as well as members of these families’ tribes and communities.388 The UN and human rights organizations have described the treatment of these families as “collective punishment”.390 There are concerns over the

386 See Section II.E.1 (“Human Rights Situation – State Actors”).
387 See Section III.C.1.d (“Assessing where the proposed area of IFA/IRA is practically, safely and legally accessible”).
388 “Some of these Iraqis are the wives or siblings of Islamic State fighters, but others have only loose tribal connections to people in the militant group. Still others say they’ve been stigmatized for simply remaining in their hometowns when the Islamic State took control instead of fleeing. One thing they have in common: All are Sunni Muslims”. Foreign Policy. Among Displaced Iraqis, One Group Is Worse Off than the Rest, 29 April 2019. https://bit.ly/2JjyiBW. “These are the ‘ISIS families’ – they are here where their sons or husbands or fathers joined up by choice or by force, whether they were fighters or leaders, administrative employees or drivers. (…) if a person belongs to a tribe in which the majority supported the Islamic State group, the whole family is considered an ‘ISIS family’”. The New Arab, Awaiting Judgement: Meeting the Islamic State Families Held in Desert Camps, 2 October 2018. https://bit.ly/2Q5G1R. “In many cases, wives and children of Islamic State fighters were often victims of the group’s violence themselves, yet they are widely perceived as perpetrators or at least accomplices”, Lawfare, Iraq’s Hashish Approach to Punishing Islamic State ‘Collaborators’ Stands to Have Counterproductive Consequences, 11 June 2018. https://bit.ly/2K3v0lp. “Kinship ties to the group are considered a sufficient basis for retaliation even if the relatives of IS members did not personally commit any crimes. A key principle of tribal law, which is influential in Iraq – particularly in areas where state authority is weak – is the attribution of collective guilt to the family or tribe of the perpetrator of a crime. This principle allows for the relative of an IS member to be held vicariously responsible for crimes that he or she committed individually”, UNU-CPR, The Limits of Punishment, May 2018, https://bit.ly/2z6nQC, p. 10. According to Amnesty International, several interrelated and overlapping factors influence the perception of who constitutes an ‘ISIS family’: “Perhaps the most determinative factor is if the family has a relative who was a member of IS. The perception of an affiliation to IS can exist even if the relative is a distant relative, with no relationship by blood. It may also exist in cases where the relative was not an IS fighter or commander, but worked in non-combat roles, such as an administrative employee, driver or cook.” Additional factors include: previous residency in an ISIS-held area; flight from an ISIS-held area at a later stage of the conflict; affiliation with a tribe that (predominantly) supported ISIS; and arrest of male family member on suspicion of ISIS membership; Amnesty International, The Condemned, April 2018, www.refworld.org/docid/5ad84a274.html, pp. 12, 41. See also, AP, Children of Islamic State Group Live Under A Stigma in Iraq, 15 October 2018, https://bit.ly/2Ow2VUe; Marie Claire, The Truth about the Wives of ISIS, 4 October 2018, http://bit.ly/2RtvA3E; Just Security, “ISIS Widows” and “Boko Haram Wives”: Overlooked Abuses in Iraq and Nigeria, 23 August 2018, https://bit.ly/2xas1Qf.
389 “Families with perceived IS ties have reported being subjected to forced displacement, evictions, arrests, looting of their homes, house demolitions, threats, sexual abuse and harassment, and discrimination after returning to their places of origin. Those carrying out this treatment include the local authorities; Iraqi forces, including the PMU, local militias and members of the families’ tribe and community”, Amnesty International, The Condemned, April 2018, www.refworld.org/docid/5ad84a274.html, p. 36. See also, UNU-CPR, The Limits of Punishment, May 2018, https://bit.ly/2z6nQC, pp. 10-11.
390 “Family members of alleged ISIS members are often treated as guilty by association, regardless of their own individual culpability”; UNU-CPR, A Will to Punish – The Shia View of Dealing with ISIS Suspects in the Hands of Iraqi Justice, July 2018.
In their home areas, families associated with actual or perceived ISIS members are reported to be routinely subjected to a variety of punitive measures, including threats (for example by marking homes as belonging to “Daesh” families), harassment, physical attack, destruction, burning, looting and confiscation of homes, societal marginalization as well as cutting off essential services, including electricity and water. According to reports, they are also subjected to forced eviction/expulsion and/or forced relocation to IDP camps.


In several towns, militia leaders have compelled local councils to invalidate the property rights of Sunnis on the grounds that they supported the Islamic State. The practice has led to major demographic changes in traditionally mixed Sunni-Shiite areas such as Hilla and Diyala”, Washington Post, As Iraq’s Shiite Militias Expand Their Reach, Concerns about an ISIS Revival Grow, 9 January 2019, www.wapo.st/2QjWJld;


In several towns, militia leaders have compelled local councils to invalidate the property rights of Sunnis on the grounds that they supported the Islamic State. The practice has led to major demographic changes in traditionally mixed Sunni-Shiite areas such as Hilla and Diyala”, Washington Post, As Iraq’s Shiite Militias Expand Their Reach, Concerns about an ISIS Revival Grow, 9 January 2019, www.wapo.st/2QjWJld;
Since 2015, reprisal attacks against Sunni Arab civilians on account of their families or tribes’ alleged support for ISIS at the hands of Yazidi armed groups in Sinjar District (Ninewa) have been reported. Civilians are reported to have been abducted and killed, while properties were looted and destroyed.396 Reports also describe IDP families associated with actual or perceived ISIS members being prevented from returning to their home areas.397 Others were reported to be pressured to make “blood money” payments to the victims of ISIS before being allowed to return.398 Families associated with actual or perceived ISIS members are reported to be subjected to stringent movement restrictions, including when seeking to leave IDP camps temporarily (e.g. to visit a hospital) or in the context of returns to their home areas.399 Despite underreporting due to stigma and fear of retaliation,400 sexual harassment, rape and threat of rape, as well as sexual exploitation of women and girls at the hands of security actors is reported in IDP camps.401 The use of sexual violence in this context is reported to be used to punish the women for...
their association with actual or perceived ISIS members. It has been reported that in IDP camps, families associated with actual or perceived ISIS members, and in particular female-headed households, have been denied humanitarian assistance, including food, water, non-food items and health care on account of their association.

Families associated with actual or perceived ISIS members are reported to be unable to obtain the security clearance required to claim compensation, or to issue or replace missing or expired civil documentation, including civil ID cards, birth, absence and death certificates, marriage and divorce certificates, welfare cards, and passports. The lack of valid documentation affects their access to education and employment, their freedom of movement, and their ability to apply for welfare benefits, inherit property or remarry. Women associated with actual or perceived ISIS members who go to the


According to reports, family members of actual or perceived ISIS members who have been killed or disappeared are unable to obtain “certificates of absence”, which is required for issuing a death certificate and accessing financial compensation. “There are other pressing needs as well, related to the missing, including legal and financial needs. Iraqi law provides for something amounting to a ‘certificate of absence’ issued by a Judge, based on police report. It is valid for three years, at the end of which a death certificate may be issued. Families are also provided compensation or reparation for the disappearance of their members. Preliminary research seems to indicate that certificates of absence are not provided to the families of suspected ISIL members who have disappeared, including for those who have disappeared following surrendering to Iraqi forces”; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b743d9d4.html, paras 75-76. Women who are unable to obtain death certificates for their spouses are unable to inherit property or remarry; HRW: Families of Alleged ISIS Members Denied IDs, 25 February 2018, www.refworld.org/docid/5a99176a4.html.


offices of the Civil Status Directorates to enquire about civil documentation risk being arrested, unless they are accompanied by a lawyer.409

In some instances, families making enquiries about the fate of arrested or disappeared family members with alleged ISIS links are reported to have been threatened by security forces.410

c) Persons Providing Legal Services to ISIS Suspects and Families Associated with Actual or Perceived ISIS Members

Lawyers and others providing legal services to ISIS suspects and families related to actual or perceived ISIS members are reported to have been subjected to threats, harassment, and, in some cases, arbitrary arrest and criminal prosecution on terrorism charges by security and intelligence officials and government-affiliated forces.411 As a result, legal representation for ISIS suspects and their family members is reported to have become very limited.412

Depending on the individual circumstances of the case, UNHCR considers that civilians falling into the following categories are likely to be in need of international refugee protection on the basis of their imputed political opinion, their religious or ethnic identity, and/or other relevant grounds:

a) Sunni Arab and Sunni Turkmen men and boys of fighting age, who lived in an area under ISIS control and/or where ISIS maintains a presence;

b) Women and children associated with real or perceived ISIS members on account of their family or tribal relations.

UNHCR further considers that persons falling in the following categories may be in need of international refugee protection on the basis of their imputed political opinion, their religious or ethnic identity, and/or other relevant grounds, depending on the individual circumstances of the case:

a) Other Sunni Arabs and Sunni Turkmen, including on account of having lived in an area under ISIS control and/or where ISIS maintains a presence, or because they share a tribal or familial affiliation with an area formerly under ISIS control and/or with a continued ISIS presence;

b) Persons providing legal services to ISIS suspects and families associated with real or perceived ISIS members.

In view of the need to maintain the civilian and humanitarian character of asylum, applications for international refugee protection by armed elements should not be considered unless it has been established that they have genuinely and permanently renounced military activities.413

UNHCR / May, 2019


412  UNHCR Executive Committee, Conclusion on the Civilian and Humanitarian Character of Asylum, No. 94 (LIII) - 2002, 8 October 2002, www.refworld.org/docid/3dadf7d7c.html. For guidance on how to establish the genuineness and permanence of
armed elements, may, furthermore, give rise to the need to examine possible exclusion from refugee status.

In view of the particular circumstances and vulnerabilities of children, the application of the exclusion clauses to children needs to be exercised with great caution. Where children associated with armed groups are alleged to have committed crimes, it is important to bear in mind that they may be victims of offences against international law and not only perpetrators.

2) Persons Associated with, or Perceived as Supportive of, the Government

In an apparent effort to undermine security and the functioning and overall legitimacy of the Government, and despite having lost territorial control and its ability to systematically target persons of this profile, it has been reported that ISIS continues to regularly target civilians associated with, or perceived to be supporting, the Iraqi Government. These civilians are reported to be subjected to intimidation, abduction and assassination, including by the use of IEDs on roads, magnetic bombs attached to vehicles and grenades hurled against homes. Attacks against persons of this profile occur particularly, but not exclusively, in areas retaken from ISIS where the group maintains a presence. Those targeted by ISIS include in particular:

[414] For further guidance on the application of the exclusion clauses to children, see UNHCR, Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees, HCR/GIP/09/08, 22 December 2009, www.refworld.org/docid/4b2f46fd2.html, paras 58-64.

[415] The Paris Principles state: “Children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law; not only as perpetrators. They must be treated in accordance with international law in a framework of restorative justice and social rehabilitation, consistent with international law which offers children special protection through numerous agreements and principles”; UNICEF, The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007, www.refworld.org/docid/465198442.html, paras 3.6 and 3.7.

[416] “Through 2018, dozens of village chiefs have been killed across northern Iraq in assassinations, bombings, and kidnappings. At least thirteen have been killed since December, including four in Mosul. The assassins travel in small groups under the cover of darkness and know exactly which houses to target. They enter villages with names in hand, sometimes dressed in military uniform; the lucky ones are the locals who get a warning to cut their links with the government. (...) In recent months, scores of houses belonging to military and militia officers and locals who connect villages to state authorities have been burned or reduced to rubble.” The New York Review of Books, Undefeated, ISIS Is Back in Iraq, 13 February 2019, https://bit.ly/2GJfHye. “Much of this [ISIS'] strategy has focused on a combination of attempting to reassert tacit control over rural areas while simultaneously targeting key political and symbolic figures associated with the Iraqi state.” According to Michael Knights of the Washington Institute for Near East Policy, “Since the era when ISIS controlled territory, they've been trying to get rid of the people who would eventually hunt them down. They're killing village headmen, tribal leaders, the new sahwa [an informal tribal organization allied against the Iraqi State], and the Popular Mobilization Units.” According to Hassan Hassan of the Tahrir Institute for Middle East Policy, “[T]hey’re going after people who matter to the Iraqi state” (emphasis added); Foreign Policy, ISIS 2.0 Is Really Just the Original ISIS, 3 April 2018, https://bit.ly/2uJSPor. See also, UNAMI, Report on Human Rights in Iraq: January to June 2017, 14 December 2017, www.refworld.org/docid/5a746d804.html, paras ix.

[417] “With almost 200,000 civilians killed across northern Iraq in assassinations, bombings, and kidnappings, at least 13 civilians have been killed since December, including four in Mosul. The assassins travel in small groups under the cover of darkness and know exactly which houses to target. They enter villages with names in hand, sometimes dressed in military uniform; the lucky ones are the locals who get a warning to cut their links with the government. (...) In recent months, scores of houses belonging to military and militia officers and locals who connect villages to state authorities have been burned or reduced to rubble.” The New York Review of Books, Undefeated, ISIS Is Back in Iraq, 13 February 2019, https://bit.ly/2GJfHye. “Much of this [ISIS'] strategy has focused on a combination of attempting to reassert tacit control over rural areas while simultaneously targeting key political and symbolic figures associated with the Iraqi state.” According to Michael Knights of the Washington Institute for Near East Policy, “Since the era when ISIS controlled territory, they've been trying to get rid of the people who would eventually hunt them down. They’re killing village headmen, tribal leaders, the new sahwa [an informal tribal organization allied against the Iraqi State], and the Popular Mobilization Units.” According to Hassan Hassan of the Tahrir Institute for Middle East Policy, “[T]hey’re going after people who matter to the Iraqi state” (emphasis added); Foreign Policy, ISIS 2.0 Is Really Just the Original ISIS, 3 April 2018, https://bit.ly/2uJSPor. See also, UNAMI, Report on Human Rights in Iraq: January to June 2017, 14 December 2017, www.refworld.org/docid/5a746d804.html, paras ix.

[418] “With almost 200,000 civilians killed across northern Iraq in assassinations, bombings, and kidnappings, at least 13 civilians have been killed since December, including four in Mosul. The assassins travel in small groups under the cover of darkness and know exactly which houses to target. They enter villages with names in hand, sometimes dressed in military uniform; the lucky ones are the locals who get a warning to cut their links with the government. (...) In recent months, scores of houses belonging to military and militia officers and locals who connect villages to state authorities have been burned or reduced to rubble.” The New York Review of Books, Undefeated, ISIS Is Back in Iraq, 13 February 2019, https://bit.ly/2GJfHye. “Much of this [ISIS'] strategy has focused on a combination of attempting to reassert tacit control over rural areas while simultaneously targeting key political and symbolic figures associated with the Iraqi state.” According to Michael Knights of the Washington Institute for Near East Policy, “Since the era when ISIS controlled territory, they've been trying to get rid of the people who would eventually hunt them down. They’re killing village headmen, tribal leaders, the new sahwa [an informal tribal organization allied against the Iraqi State], and the Popular Mobilization Units.” According to Hassan Hassan of the Tahrir Institute for Middle East Policy, “[T]hey’re going after people who matter to the Iraqi state” (emphasis added); Foreign Policy, ISIS 2.0 Is Really Just the Original ISIS, 3 April 2018, https://bit.ly/2uJSPor. See also, UNAMI, Report on Human Rights in Iraq: January to June 2017, 14 December 2017, www.refworld.org/docid/5a746d804.html, paras ix.


[414] For further guidance on the application of the exclusion clauses to children, see UNHCR, Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees, HCR/GIP/09/08, 22 December 2009, www.refworld.org/docid/4b2f46fd2.html, paras 58-64.

[415] The Paris Principles state: “Children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law; not only as perpetrators. They must be treated in accordance with international law in a framework of restorative justice and social rehabilitation, consistent with international law which offers children special protection through numerous agreements and principles”; UNICEF, The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007, www.refworld.org/docid/465198442.html, paras 3.6 and 3.7.

[416] “Through 2018, dozens of village chiefs have been killed across northern Iraq in assassinations, bombings, and kidnappings. At least thirteen have been killed since December, including four in Mosul. The assassins travel in small groups under the cover of darkness and know exactly which houses to target. They enter villages with names in hand, sometimes dressed in military uniform; the lucky ones are the locals who get a warning to cut their links with the government. (...) In recent months, scores of houses belonging to military and militia officers and locals who connect villages to state authorities have been burned or reduced to rubble.” The New York Review of Books, Undefeated, ISIS Is Back in Iraq, 13 February 2019, https://bit.ly/2GJfHye. “Much of this [ISIS'] strategy has focused on a combination of attempting to reassert tacit control over rural areas while simultaneously targeting key political and symbolic figures associated with the Iraqi state.” According to Michael Knights of the Washington Institute for Near East Policy, “Since the era when ISIS controlled territory, they've been trying to get rid of the people who would eventually hunt them down. They’re killing village headmen, tribal leaders, the new sahwa [an informal tribal organization allied against the Iraqi State], and the Popular Mobilization Units.” According to Hassan Hassan of the Tahrir Institute for Middle East Policy, “[T]hey’re going after people who matter to the Iraqi state” (emphasis added); Foreign Policy, ISIS 2.0 Is Really Just the Original ISIS, 3 April 2018, https://bit.ly/2uJSPor. See also, UNAMI, Report on Human Rights in Iraq: January to June 2017, 14 December 2017, www.refworld.org/docid/5a746d804.html, paras ix.
• Government officials, particularly at the municipal levels. Former government officials may in some cases remain at risk of attack.

• Civil servants, in particular at the local level administration. In addition, it has been reported that government-appointed judges and prosecutors, particularly those concerned with cases under the Anti-Terrorism Law, are targeted by ISIS and other armed groups.

• Political party members across the political spectrum. Attacks against party members regularly intensify in the run-up to elections as ISIS seeks to discredit the government and disrupt the political process and functioning of the state.

According to Michael Knights, an Iraqi military analyst and senior fellow at the Washington Institute, “IS insurgents have killed an average of 8.4 village heads per month since January 2018”; ACLED, The Reconstitution of the Islamic State’s Insurgency in Central Iraq, 5 July 2018, https://bit.ly/2Rj6xWA. ISIS has reportedly taken responsibility for attacks against persons of this profile; however, it is not always possible to establish the perpetrators and their motives for targeting persons of this profile. Other actors may also target persons of these profiles.


Members of the ISF, affiliated forces and the Peshmerga. There have also been reports of targeted attacks against former members of the Iraqi Army.

Civilians suspected of cooperating with the ISF, affiliated forces or the Peshmerga, or refusing to cooperate with ISIS.

Tribal leaders and members of tribes associated with the government.


It has been reported that ISIS does not differentiate between armed and civilian members of tribes. “ISIS’s Salah al-Din Province in Iraq distributed a video entitled ‘You Had Better Stop.’ The video shows an ISIS operative who refers to attacks carried out by ISIS against the Sunnis in Iraq, mainly against the Sunni tribespeople, including the Shammar tribe (the largest tribe in western Iraq). According to the operative, the reason for these attacks is the collaboration with the Iraqi army, the police and the Tribal Mobilization forces in fighting against ISIS. The speaker threatened the Sunnis in Iraq not to cooperate with the ‘infidel Shite regime’.” The Meir Amit Intelligence and Terrorism Information Center, Spotlight on Global Jihad (August 30 – September 5, 2018), 6 September 2018, https://bit.ly/2NAcJdJ. “In a village near the Sunni town of Shirqat, south of Mosul, Islamists stormed the house of a tribal sheik who led a Sunni militia that had fought against the militants, killing him, his son and two guests”; Reuters, Islamic State Attacks Kill 10 in Northern Iraq – Police, 12 March 2018, https://reut.rs/2k2E27; “Attacks upon tribal leaders are important because it was one of the main ways the Islamic State made its comeback after 2008 by eliminating local leaders and intimidating tribes”; Musings on Iraq, Security in Iraq, Jan 1-7, 2019, 9 January 2019, http://bit.ly/2noVeyG. See also, Rudaw, Tribal Leader Killed in Mosul Roadside Bombing, 10 April 2019, https://bit.ly/2UCouD7; NINA, A Clan Sheikh Killed and the Wounding of His Brother in a Raid on a Village in Kirkuk, 30 March 2019, https://bit.ly/2bn1INR; NINA, Daesh Exploited a Number of Houses in Southwest Kirkuk Without Casualties, 1 March 2019, https://bit.ly/2U9b6s; AP, IS Move from Syria to Iraq, 2019, UNHCR / May, 2019
According to reports, political party members and election candidates have also been targeted by actors other than ISIS, including as a result of political and/or sectarian rivalries or ideological differences, e.g. between parties split along sectarian lines in the disputed areas, between secular and Shi’ite Islamist parties, or as a result of intra-Shi’ite competition.  

It has been reported that, in some instances, family members, drivers and bodyguards have also been targeted on account of their association with individuals with the above profiles.

Based on the preceding analysis, UNHCR considers that in areas where ISIS maintains a presence, persons associated with, or perceived as supportive of, the Iraqi Government, are likely to be in need of international refugee protection on the basis of their political opinion or imputed political opinion, religion, or other relevant grounds, depending on the individual circumstances of the case. Such persons include:

- Government officials;
- Civil servants, including government-appointed judges and prosecutors, and employees of State-owned companies;
- Political party members;
- Members of the ISF, affiliated forces and Peshmerga;
- Civilians suspected of cooperating with the ISF, affiliated forces or the Peshmerga;
- Tribal leaders and members of tribes associated or perceived to be associated with the government.

Former government officials and former members of the ISF, affiliated forces and Peshmerga as well as family members of individuals associated with, or perceived as supportive of, the Iraqi Government, may also be in need of international protection, depending on the individual circumstances of the case.


"Former members" refers to former military personnel who no longer were on active duty at the time of their flight from Iraq.
In other parts of the country, UNHCR considers that persons associated with, or perceived as supportive of, the Iraqi Government, may be in need of international refugee protection on the basis of their political opinion or imputed political opinion, religion, or other relevant grounds, depending on the individual circumstances of the case.

In view of the need to maintain the civilian and humanitarian character of asylum, applications for international refugee protection by armed elements should not be considered unless it is established that they have genuinely and permanently renounced military and armed activities. Claims by police officers, former soldiers and tribal fighters may furthermore give rise to the need to examine possible exclusion from refugee status.

3) Persons Opposing, or Perceived to Be Opposing, the Government or those Affiliated with the Government

Individuals who criticize or are perceived to criticize government officials, politicians or others with political influence, or who allege government abuse or corruption are reported to have been targeted by state and state-affiliated actors, including influential government and party officials, their security staff, and affiliated armed groups. Forms of targeting are reported to include intimidation, harassment, physical attacks, arbitrary arrest and politically motivated criminal prosecution (e.g. on defamation charges), abduction and, in some instances, killing. Those falling under this profile include...

---


434 See Section III.D ("Exclusion Considerations").

435 For examples of targeting by these actors, see sources in subsequent footnotes.


Notes:

436 According to the Director of the Iraqi Journalists Rights Defence Association (IJRDA), Ibrahim al-Sarraj, “most attacks against journalists are committed by state officials, military or police forces or armed groups outside the umbrella of the state.”

practices.\textsuperscript{439} The government’s announcements to investigate killings rarely result in the identification and prosecution of perpetrators.\textsuperscript{440}

Individual former members of the government of former President Saddam Hussein and the defunct Ba’ath Party\textsuperscript{441} reportedly continue to be targeted, including for killing in some cases, although it is often not known whether they were singled out solely on account of their former government and/or party affiliation or (also) on other grounds (e.g. suspicion of ISIS affiliation, or their tribal, sectarian or professional background).\textsuperscript{442}

UNHCR considers that persons opposing or perceived to be opposing government officials (including at the local level), politicians or others with political influence may be in need of international refugee protection on the grounds of their political opinion or imputed political opinion, and/or other relevant grounds, depending on the individual circumstances of the case.

\textsuperscript{439} “The intimidation of judges and lawyers has a long history in Iraq, but it has intensified in recent months. Reports uploaded on the Ceasefire reporting platform detail threats against a number of judges in Basra for their criminal law work, including sentencing corrupt officials. One investigative judge working on corruption and drugs cases had his home targeted by small weapons fire as a warning”; Ceasefire Centre for Civil Rights / MRGI, Civilian Activists under Threat in Iraq, December 2018, https://bit.ly/2UnHNg1, p. 18. “Members of the judiciary continue to face significant pressure, including intimidation and violence, particularly in cases involving organised crime, corruption and the activities of militias”; Australia: Department of Foreign Affairs and Trade, Country Information Report – Iraq, 9 October 2018, https://bit.ly/2CaY0xv, p. 28. The prosecution of high-profile corruption cases has been hampered, inter alia, by “fear by judges to issue verdicts against individuals with strong party affiliations”; Middle East Research Institute, Anti-Corruption Efforts in Iraq, 16 January 2018, http://bit.ly/2p4DxVX. “False accusations of illegal corruption have frequently been used as a vehicle for targeting people who are responsible for dealing with the files of corruption.” And further: “These personal costs are only too clear, since losing jobs, and even lives, have been experienced by commissioners. For instance, al-Ugaili was forced to resign from his post as head of the C.O.I. and to flee from Baghdad in 2011; Sabah al-Saadi was banned from standing in elections in 2014; al-Shabibi is still outside Iraq; and Adil Nuri was threatened in late 2015 when attempts were made to kill him and his car came under fire, as a result of which his son was injured”; Sarwar Mohammed Abdullah, Corruption Protection: Fractionalization and the Corruption of Anti-Corruption Efforts in Iraq after 2003, British Journal of Middle Eastern Studies, 5 December 2017, http://bit.ly/2FGhH5x, pp. 8-14-15. See also, GICJ, GICJ’s Submissions on Iraq – Reports Submitted to the 35th Session of the UN Human Rights Council, June 2017, http://bit.ly/2FDe7F1, p. 5; Medwell Journals, Anti-Corruption Strategies in Iraq after 2003: The Challenges Ahead, 2017, http://bit.ly/2D7rVpb, p. 2195.

\textsuperscript{440} “The perpetrators of deadly attacks on civilian activists, including protestors, human rights defenders and media workers, are routinely described by official Iraqi sources as unidentified or unknown. In almost every case, the announcement of an investigation into such killings has not resulted in the identification of the perpetrators or the delivery of justice”; Ceasefire Centre for Civil Rights / MRGI, Civilian Activists under Threat in Iraq, December 2018, https://bit.ly/2UnHNg1, p. 18.


\textsuperscript{442} “Tribal sheikhs often complain that their homes and properties are being attacked by the PMF because of alleged connections with the pre-2003 regime”; Carnegie Middle East Center, The Sunni Predicament in Iraq, March 2016, http://ceip.org/2DoMkGv, p. 10. “On 30 December [2016], one civilian was shot and killed by unidentified gunmen in Abu al-Khaseeb district, Basra Governorate. The victim was from the Sunni community and was a former member of the Ba’ath Party”; UNAMI, Report on Human Rights in Iraq: July to December 2016, 30 August 2017, www.refworld.org/docid/5a7470a84.html, p. 16. “In the complicated web of historical animosities playing out in the current conflict in Iraq, Shia political rhetoric tends to lump together supporters of ISIS with forces loyal to the disbanded Baath Party and with retired senior officers who had served under Saddam Hussein. In line with this rhetoric pro-government forces engaged in military operations against ISIS appear to have conflated ISIS with the Baath party. (…) Analysts of ISIS have indeed pointed to the significant role former Baath party members play in it. However many other former Baathists, some of whom Human Rights Watch interviewed, claim to have no connection to the extremist group”; HRW, Ruinous Aftermath: Militia Abuses Following Iraq’s Recapture of Tikrit, 20 September 2015, www.refworld.org/docid/55f8dbd64.html. See also, UNAMI, Report on the Protection of Civilians in the Armed Conflict in Iraq: 1 November 2015 - 30 September 2016, 30 December 2016, www.refworld.org/docid/5685c1694.html, p. 30; UNAMI, Report on the Protection of Civilians in the Armed Conflict in Iraq: 11 December 2014 - 30 April 2015, 13 July 2015, www.refworld.org/docid/55a4b83c4.html, pp. 4, 29. In early March 2018, based on Law 72 of September 2017, the Iraqi Supreme National Commission for Accountability and Justice reportedly ordered the confiscation of movable and immovable property of former members of the Ba’ath Party regime and, in some cases, their families and second-degree relatives. The law reportedly “stipulates the confiscation and seizure of financial assets and property of late President Saddam Hussein and his relatives, 52 senior officials from his former regime, and over 4,000 ex-ministers and officials of the Baath party”; Asharq Al-Awsat, Iraq to Seize Assets of Saddam Hussein, His Aides, 6 March 2018, http://bit.ly/2GyW7gt. See also, Rawabet Center for Research and Strategic Studies, A New Assessment of the Accountability and Justice Commission of the Property of the Former Iraqi Regime, 12 March 2018, http://bit.ly/2DxW6zC.
For guidance on journalists and other media professionals, see Section III.A.6.

4) Persons Opposing, or Perceived to Be Opposing, the KRG or Those Affiliated with the KRG

Individuals who criticize or are perceived to criticize the KRG authorities, the dominant ruling parties, or others with political influence in the KR-I, or who allege government abuse or corruption in the KR-I, are reported to have been targeted in some instances by the KRG authorities, influential government and party officials and party-affiliated security forces in the KR-I.443 Those falling under this profile are reported to include in particular journalists and other media professionals,444 members of rival or opposition political parties,445 civil society activists446 and protestors,447 the profiles of whom may

443 ”Political speech in the Kurdistan region can also prompt arbitrary detentions or other reprisals from government or partisan forces”, Freedom House, Freedom in the World 2019 – Iraq, 4 February 2019, www.ecoi.net/en/document/2002613.html.


Forms of targeting are reported to include intimidation, harassment, physical attacks, arbitrary arrest and politically motivated criminal prosecution. According to reports, family members of real or perceived KRG critics have, at times, also been subjected to threats and defamation by KRG authorities or unknown actors.

UNHCR considers that individuals opposing or perceived to be opposing the KRG authorities, the dominant ruling parties or others with political influence in the KR-I may be in need of international refugee protection on the basis of their political opinion or imputed political opinion, and/or other relevant grounds, depending on the circumstances of their case.

Family members of persons of this profile may be in need of international refugee protection on the basis of their imputed political opinion, and/or other relevant grounds, depending on the circumstances of their case.

For guidance on journalists and other media professionals, see Section III.A.6.

5) Members of Religious and Minority Ethnic Groups, and Persons Contravening Strict Islamic Rules

a) Members of Religious and Minority Ethnic Groups

Iraq is home to a diversity of distinct ethnic groups, including Arabs, Kurds, Turkmen, citizens of African descent (referred to as “Black Iraqis”), Roma (Dom), Bidoon and Shabaks. The majority of the population adheres to either Shi’ite or Sunni Islam. In addition, there are communities of various Christian denominations, Yazidis, Sabaeans-Mandaens, Kaka’is, Baha’is and a very small number of Jews.

While the Iraqi authorities are reported to generally respect freedom of religion, minorities, many of which do not have strong political or tribal networks, have faced waves of displacement due to conflict and political and religious persecution, most recently at the hands of ISIS. Furthermore, minority...
groups report legal, political and economic marginalization. The practice of the Bahá’í faith remains prohibited. Minority communities have reported instances of harassment as well as sexual assault from government-affiliated groups in some areas. In the KR-I, instances of discrimination by the authorities against members of minority groups and suppression of their political freedom have been reported. In some instances, minority rights groups and activists have reported about threats and politically motivated restrictions on their work by state and non-state actors.

The 2005 Constitution explicitly recognizes Iraq's ethnic and cultural diversity and affords protections and guarantees to minority groups. However, several constitutional and other legal provisions appear to compete with these guarantees. For example, the Constitution guarantees the "Islamic identity" of the majority of the Iraqi people, declares Islam to be the official state religion, mandates that Islam be considered a "foundation source of legislation", and states that no law may be enacted that contravenes the "established provisions of Islam"; see Articles 2(1), 2(1A) and 2(2). Most of these contradictions have to date not been tested in court and, accordingly, the full scope of the protection of the freedom of religion remains unclear. Other legal provisions restrict constitutional guarantees, including by preventing the conversion of Muslims to other faiths and the automatic conversion of minor children to Islam if either parent converts to Islam. Furthermore, by law, children born to a Muslim father assume the Muslim religion, including in instances of rape: US Department of State, 2017 Report on International Religious Freedom – Iraq, 29 May 2018, www.ecoi.net/en/document/1436875.html; MRGI, Crossroads: The Future of Iraq’s Minorities after ISIS, June 2017, www.refworld.org/docid/5a8d6dd44.html, p. 33; Constitution of the Republic of Iraq, 15 October 2005, www.refworld.org/docid/454f50804.html. See also below "Mixed Marriages" and "Conversion from Islam".


"On 16 November [2017], a prominent Iraqi minority rights advocate received a written threat slipped under his door at his office in Karrada neighbourhood, Baghdad. The message, written allegedly by an unidentified armed group, ordered the victim to stop work or his family would be in danger. This reportedly is one of many letters the victim has received threatening him to stop his work"; UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6afe5c44.html, p. 14. In January 2017, Kurdish authorities reportedly temporarily closed the Yazidi women’s rights organization, Yazda, citing the lack of a license to operate. However, according to observers, the ban was linked to Yazda’s plans to provide humanitarian assistance to Yazidi families in Sinjar, which run counter to what has been described as “economic blockade” imposed by the KRG against Sinjar amidst a political rivalry with PKK-affiliated Yazidi armed groups; Freedom House, Freedom in the World 2018 – Iraq, 5 April 2018, www.refworld.org/docid/5ad85795a.html; Rudaw, Yazda: Offices in Kurdistan to Reopen after Talks.
claimed by or attributed to ISIS.\textsuperscript{463} Nearly 3,000 Yazidis and 1,200 Turkmen, mostly women and children, are reported to remain missing after having been abducted by ISIS in 2014.\textsuperscript{464}

Sunni Arabs and Sunni Turkmen, particularly from formerly ISIS-held areas, are reported to be targeted on account of their perceived support for ISIS.\textsuperscript{465}

Over the years, there have been reports of instances of killings and kidnapping for ransom targeting members of religious minorities, including Christians and Sabaeans-Mandaens, by government-affiliated groups, criminal groups and armed groups for sectarian or criminal motives (on account of their perceived wealth), or a combination of the two.\textsuperscript{466}

Homes of Christians displaced from Baghdad and other areas since 2003 as well as churches and monasteries are reported to have been seized illegally and with impunity by powerful individuals, militias and criminal networks.\textsuperscript{467} Outside the KR-I, Kurds have reportedly been targeted in reprisal acts for...


\textsuperscript{464} Since the recapturing of remaining ISIS territory in north-eastern Syria in early 2019, several hundred Yazidi women and children have reportedly been freed; AFP, Syria Kurds Return 25 Yazidis Freed from ISIS to Iraq, 13 April 2019, https://bit.ly/2GQqUK2. At the time of writing, the fate of 2,992 Yazidis is reported to remain unknown according to the Affairs Office from the KRG Ministry Religion and Endowment; Rudaw, Nadia Murad: Yazidi Mothers, Families Should Decide Fate of ISIS Children, 28 April 2019, http://www.rudaw.net/english/kurdistan/290420192. In March 2018, the Special Representative of the UNSG on Sexual Violence in Conflict, Pramila Patten, stated that an estimated 1,200 Turkmen also remain missing, including 600 women and 250 children; Haaretz, UN: Rape Victims of Islamic State ‘Were Like Living Corpses’, 10 March 2018, https://bit.ly/2KcpZwP. Some Christian women were also reported missing after having been abducted by ISIS; Open Doors, 2019 World Watch List Report – Iraq, 19 January 2019, https://bit.ly/2IBvuV7; Rudaw, ISIS Destroyed Thousands of Christian Homes, Ruined 120 Religious Sites in Mosul, 27 November 2018, https://bit.ly/2K5sugw. See also Section III.A.7 (“Women and Girls with Certain Profiles or in Specific Circumstances”).

\textsuperscript{465} Over the years, there have been reports of instances of killings and kidnapping for ransom targeting members of religious minorities, including Christians and Sabaeans-Mandaens, by government-affiliated groups, criminal groups and armed groups for sectarian or criminal motives (on account of their perceived wealth), or a combination of the two. According to Chaldean Auxiliary Bishop, Shleumon Wardouni, “(...) there is brisk trade in properties abandoned by Christians several years ago when the overall situation forced them to leave Baghdad in a hurry and they were unable to sell their homes and shops beforehand. In such cases, property sellers conduct their business on the pretext of acting as intermediaries on behalf of the original owners. There are also cases in which the same properties are sold by criminals several times. If the legitimate owners try to sell their properties on the market at some later date, they discover that they are no longer in possession of them”;

\textsuperscript{466} “Security in Areas with Continued ISIS Presence or Influence”.

\textsuperscript{467} “Criminal motives may overlap with other motives. For example, a victim may be singled out for kidnapping against ransom for the...”
their real or perceived support for the 25 September 2017 Independence Referendum organized by the KRG, which heightened tensions between Arab and Kurdish communities.\textsuperscript{468}

Reports indicate that members of other minority communities, including the Roma (Dom)\textsuperscript{469} and Iraqis of African descent (referred to as “Black Iraqis”), continue to face systematic discrimination and marginalization in all aspects of life, as a result of which many are reported to live in extreme poverty with high rates of illiteracy and unemployment.\textsuperscript{470} In addition, members of the Roma community are reportedly stateless or at risk of statelessness due to the lack of essential civil documentation, further
compounding their vulnerable situation. A number of Faili Kurds and Bidoon also remain stateless and consequently without official documentation, resulting in restrictions on access to public services and formal employment, as well as on their freedom of movement due to difficulties to pass checkpoints.

UNHCR considers that members of religious and minority ethnic groups in or near areas where ISIS maintains a presence are likely to be in need of international refugee protection on the basis of their religion, ethnicity, their political opinion or imputed political opinion, and/or other relevant grounds, depending on the individual circumstances of the case.

UNHCR considers that members of religious and minority ethnic groups originating from other areas may be in need of international refugee protection on the basis of their religion, their ethnicity, their political opinion or imputed political opinion, and/or other relevant grounds, depending on the individual circumstances of the case.

Regarding the international protection needs of Sunnis suspected of supporting ISIS, see Section III.A.1.

b) Persons Perceived as Contravening Strict Islamic Rules

Persons considered as contravening strict interpretations of Islamic rules in terms of dress, social behaviour and occupations, including atheists and secular-minded individuals, women and members of religious minority groups, are reported to face abduction, harassment and physical attack by

471 UNHCR received reports in November 2013 that Roma in Baghdad experience difficulty in obtaining or renewing essential personal status documents. Some were told that because their nationality was acquired "exceptionally" by decree of the now defunct Revolutionary Command Council, they are not eligible to renew their official documents or transfer nationality to their children. In March 2019, the Minister of Interior issued a letter addressing the Directorates of Civil Status, Passport and Residence in all governorates to grant Iraqi nationality and the Unified ID Cards to Romas. UNHCR is monitoring the implementation of the instructions; UNHCR information, April 2019. According to MRGI, the citizenship certificates held by Roma "contain the expression 'Exemption' which prevents them from holding any form of state employment. (...) Moreover, some of their civil status identification documents still contain the word 'Ghajari' (gypsy), which signals to employers that they are Roma and opens them to discrimination. Reportedly, the Ministry of the Interior has issued directives to the nationality directorates in the provinces to cease using terms 'exemption' or 'gypsy' on Roma identification documents. However, Roma have to visit a government office and submit a request in order to obtain new identification documents"; MRGI, Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) – Review of the Periodic Report of Iraq, 2018, http://bit.ly/2KsYoYo, para. 23.

472 The Iraqi Nationality Law (Law 26 of 2006) established the right to regain Iraqi nationality for those previously denaturalized on political, religious or ethnic grounds. Since then, many Faili Kurds have been reported to have had their Iraqi nationality reinstated, but UNHCR has no updated information on how many Faili Kurds have benefited from the 2006 Nationality Law and have been issued with nationality certificates, as the Government of Iraq has not released relevant data in recent years. UNHCR is aware of reports that the process of reinstatement is long and cumbersome and applicants are often required to travel from their place of residence to the nationality directorate in Baghdad to follow up on their applications. Some Faili Kurds started the process but could not complete it due to documentary and financial requirements (including for repeated travel to Baghdad). The UN Committee on the Rights of the Child (CRC) in 2015 expressed concern about "Faili Kurd children often being stateless owing to the slow reinstatement process for the Faili Kurd population." Furthermore, Faili Kurds are reported to also encounter difficulties to reclaim confiscated properties; MRGI, Iraq – Faili Kurds, updated November 2017, https://bit.ly/2zl3WI; CRC, Concluding Observations on the Combined Second to Fourth Periodic Reports of Iraq, 3 March 2015, CRC/C/IRQ/C/2-4, www.refworld.org/docid/562de4494.html, para. 76; Iraqi Nationality Law [Iraq], Law 26 of 2006, 7 March 2006, www.refworld.org/docid/4b1e364c2.html, Articles 17 and 18.

473 Bidoon are Sunni Muslims who were left stateless when Kuwait became independent in 1961. When Iraq invaded Kuwait in 1990, many Bidoon had their loyalty to Kuwait questioned and half of the country’s Bidoon population (totaling 250,000 at the time) fled or were deported to Iraq. Bidoon communities reportedly reside primarily in southern Iraq, including Dhi-Qar, Basrah and Wasit Governorates, with smaller numbers in Salah Al-Din and Nineawa Governorates. Limited information is available as to the communities’ situation in Iraq, including the size of the community and the proportion that are naturalized as Iraqi citizens; UNHCR information, March 2019. See also, UN Human Rights Council, Report of the Special Rapporteur on Minority Issues on Her Mission to Iraq, 9 January 2017, A/HRC/34/53/Add.1, www.refworld.org/docid/5899be124.html, para. 48.

474 Pending a more accurate study into statelessness in Iraq, UNHCR estimates that a total of 47,630 persons remain stateless in Iraq; UNHCR, Global Trends: Forced Displacement in 2017, 19 June 2017, www.refworld.org/docid/5b2d1fa86.html, p. 65. See below "Atheists".

475 "Non-Muslim minorities reported continued abductions, threats, pressure, and harassment to force them to observe Islamic customs." And further: "According to representatives of Christian NGOs, some Muslims continued to threaten women and girls, regardless of their religious affiliation, for refusing to wear the hijab, for dressing in Western-style clothing, or for not adhering to strict interpretations of Islamic norms governing public behavior. Numerous women, including Christians and Sabean-
various extremist armed groups and vigilantes. Furthermore, individuals (perceived to be) of diverse sexual orientations and/or gender identities are reported to face a heightened risk of targeted violence by conservative and extremist groups and individuals, who consider them to be transgressing Islamic religious norms.478

UNHCR considers that persons perceived as contravening strict Islamic rules may be in need of international refugee protection on the basis of their religion or membership of a particular social group, depending on the individual circumstances of the case.

c) Mixed Marriages

Before the fall of the former regime, marriages between different sects and communities (e.g. between Sunnis and Shi’ites, between Kurds, Arabs and Turkmen) were socially acceptable and common, especially among the middle class in demographically heterogeneous cities. However, due to increased sectarian tensions since the conflict in 2006/2007, mixed marriages, particularly between Sunnis and Shi’ites, are reported to have decreased,479 in parallel with a reported rise in intra-family marriages.480

According to reports, persons entering into mixed marriages,481 particularly women in more rural areas and from working class families, at times face familial/tribal objection and repercussions, including domestic violence, pressure to divorce, discrimination in relation to child custody rights as well as “honour” killings.482


See Section III.A.10 (“Persons of Diverse Sexual Orientations and/or Gender Identities”).


Interfaith marriages are permitted for Muslim men with women practising one of the “religions of the book” (i.e. Christians, Jews, Sabaeans-Mandaenans). Muslim women, however, are not permitted to marry outside their faith; Iraq; Personal Status Law and its Amendments (1959) [Iraq], 30 December 1959, www.refworld.org/docid/5c7664947.html, Article 17.

Canada: Immigration and Refugee Board of Canada, Iraq: Inter-Sect Marriage Between Sunni and Shia Muslims, Including Prevalence; Treatment of Inter-Sect Spouses and Their Children by Society and Authorities, Including in Baghdad; State Protection Available (2016 – January 2018), 29 January 2018, IRQ106049.E, www.refworld.org/docid/5aa916bb7.html. In the KR-I, mixed marriages are reported to be uncommon: “Even though the Christian and Muslim communities in Iraqi Kurdistan have strong ties and are on friendly terms, this has not made intermarriage any more permissible.” According to an Iraqi Priest from Erbil, “[T]here is huge potential for things to go wrong when Muslim men and Christian women marry (…). It can have a negative impact on the couple’s families and could even lead to violence (…). In Iraqi Kurdistan one case where a Yazidi woman tried to marry a Muslim ended in her gruesome murder”; Niqash, Cross-Cultural Love: What Happens When a Christian Falls in Love with a Muslim, 14 December 2017, https://bit.ly/2HFxUQo. On “honour” killings, see also Section III.A.8.d.
UNHCR considers that persons who married a person of another sect, religion or ethnicity may be in need of international refugee protection on the basis of their religion, ethnicity or membership of a particular social group, depending on the individual circumstances of the case.

d) Conversion from Islam to Christianity

The Penal Law does not prohibit conversion from Islam to Christianity (or any other religion); however, the law does not provide for the legal recognition of a change in one’s religious status.\textsuperscript{483} As a result, a convert’s national identity card would still identify its holder as “Muslim”.\textsuperscript{484} Instances of open conversion from Islam to Christianity in Iraq are very rarely reported. Converts are reported to keep their faith secret given the widespread animosity towards converts from Islam in Iraqi society and the fact that families and tribes would likely interpret conversion by one of their members as an affront to their collective “honour”.\textsuperscript{485} Open conversion would likely result in ostracism and/or violence at the hands of the individual’s community, tribe or family as well as Islamist armed groups.\textsuperscript{486}

UNHCR considers that persons who converted from Islam to Christianity are likely to be in need of international refugee protection on the basis of their religion, depending on the individual circumstances of the case.

If a conversion has been made post-departure from Iraq,\textsuperscript{487} possible risks upon return should not be excluded given the widespread animosity towards converts from Islam in Iraqi society and families and tribes’ collective notion of “honour”.


\textsuperscript{484} As a result, a female convert is legally prohibited from marrying a Christian man, as she would still be considered Muslim by law; Iraq: Personal Status Law and its Amendments (1959) [Iraq], 30 December 1959, https://www.refworld.org/docid/5c7864947.html, Article 17. Children of converts may be without an identification card, unless their parents register them as Muslims. Further, children’s religion would be recorded as “Muslim” following the conversion of either of their parent to Islam; Freedom House, Freedom in the World 2019 – Iraq, 4 February 2019, www.ecoi.net/en/document/2002613.html; USCIRF, USCIRF Annual Report 2018 – Tier 2 – Iraq, 25 April 2018, www.refworld.org/docid/5b278edd2.html. “One priest related incidents where a Muslim who had converted to Christianity was unable to change his ID card and subsequently faced difficulty from security services when trying to attend churches in a Christian quarter”; USCIRF, Wring in the Kurdish Sun: the Hopes and Fears of Religious Minorities in Northern Iraq, May 2017, www.refworld.org/docid/5ad852144.html, p. 17.


\textsuperscript{487} For further guidance, see UNHCR, Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol Relating to the Status of Refugees, 28 April 2004, HCR/GIP/04/06, www.refworld.org/docid/4090f9794.html, paras 34-36.
INTERNATIONAL PROTECTION CONSIDERATIONS WITH REGARD TO PEOPLE FLEEING THE REPUBLIC OF IRAQ

e) Atheists

Although open atheism is extremely rare in Iraq, the number of atheists is reported to be on the rise.⁴⁸⁸ Although there are no laws prohibiting “atheism”⁴⁸⁹ in some instances, atheists have reportedly been prosecuted for “desecration of religions” and related charges.⁴⁹⁰ Moreover, societal tolerance vis-à-vis atheists is reported to be very limited, as evidenced also by the public rhetoric of some politicians and religious leaders.⁴⁹¹ For fear of rejection, discrimination and violence at the hands of their families, private vigilantes and conservative/hardline religious groups,⁴⁹² atheists are reported to often keep their views secret.⁴⁹³

UNHCR considers that atheists may be in need of international refugee protection on the ground of religion,⁴⁹⁴ depending on the individual circumstances of the case.


⁴⁹⁵ Claims based on “religion” may involve “religion as belief”, including “theistic, non-theistic and atheistic beliefs”; UNHCR, Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or
6) **Journalists and other Media Professionals who Engage in Critical Reporting on Political or other Sensitive Issues**

Across Iraq, journalists and other media professionals are reported to be at risk of harassment, intimidation, physical assault, confiscation or destruction of equipment, arbitrary arrest, prosecution (e.g. on defamation charges), and in some cases, abduction and killing by various actors, including central, regional or local authorities, the ISF and affiliated forces, ISIS, as well as political, tribal and business figures and their security staff. Journalists and other media professionals who report on protests, investigate controversial political or other sensitive issues, including corruption, abuse of authority, weak government capacity, or poor security, or are seen as criticizing government officials and affiliates, are reported to be particularly targeted. As most Iraqi news and television stations (including in the KR-I) are owned by political parties, party-affiliated armed groups or the authorities, these media outlets and their employees are also reported to be targeted on account of a political opinion or sectarian affiliation imputed to them based on their employers’ standing or views. At the time of writing a new “Information Technology Crimes Law”, also known as the cybercrime law, is under consideration by parliament. Observers noted that the law posed a further threat to the freedom of expression, as it would impose heavy prison sentences, including life imprisonment, and fines of up to 50 million Iraqi Dinars (42,000 USD) for online statements that might come within the scope of vaguely

---

495 “In (…) Iraq (156th), politicians and businessmen sue journalists, have them arrested, or put pressure on the media they work for so that they are forced to censor themselves”; RSF, 2019 RSF Index: Middle East’s Journalists Deliberately Targeted, April 2019, https://bit.ly/2IVpmtx.


497 “Investigative reporting on corruption or embezzlement exposes journalists to serious threats”; RSF, Still Dangerous for Journalists, accessed 30 April 2019, https://rsf.org/en/iraq. See also Section III.A.3 (“Persons Opposing, or Perceived to Be Opposing, the Government or those Affiliated with the Government”) and III.A.4 (“Persons Opposing, or Perceived to Be Opposing, the KRG”).


499 “Working for a media outlet that is owned by a militia does not guarantee safety in Iraq (…) because threats could come from rival militias”; The New Arab, Journalists Fight to Survive in Iraq, Dreaming of a Career Beyond War Reporting, 12 June 2018, https://bit.ly/2zkTWL3. “(…) the most powerful restrictions on press freedom are not imposed by the government but by non-state actors (…) Indeed, armed militias and extremist elements regularly target journalists and media outlets, who as a result, are reluctant to tackle delicate issues relating to these groups. (…) Journalists have stated that they are expected to support the state and non-state troops in their fight and to turn a blind eye on human rights violations committed by these groups”; MiCT, In Defence of the Iraqi Media: Between Fuelling Conflict and Healthy Pluralism, 2017, http://bit.ly/2HApjxt, p. 11. See also, Al-Ahram Weekly, Free Speech under Attack in Iraq, 2 August 2018, https://bit.ly/2APz816; Al Jazeera, Is Iraq the most Dangerous Country for Journalists?, 1 November 2017, http://bit.ly/2nmdoB1.
worded provisions such as “undermining the independence of the country, its peace, or its economic, political, military, or security interests.”

In the KR-I, journalists and other media professionals who engage in critical reporting on political or other sensitive issues are reported to be subjected to intimidation, physical assault, confiscation or destruction of equipment, arbitrary arrest and politically-motivated prosecution (e.g. on charges of defamation or terrorism), mostly at the hands of the KRG authorities. In some instances, journalists are reported to also have been targeted for abduction and killing; however, most cases remain unresolved as they are reportedly not promptly and transparently investigated by the authorities. Incidents of interference in journalistic activities and attacks against journalists, media professionals and media outlets perceived as critical of the KRG are most frequently reported during political events or security crises.

UNHCR considers that journalists and other media professionals who engage in critical reporting on political or other sensitive issues are likely to be in need of international refugee protection on the basis of their political opinion or imputed political opinion, their religious views, and/or other relevant grounds, depending on the individual circumstances of the case.

---


501 In 2018, the Kurdistan Journalists Syndicate recorded 132 incidents of violations committed against journalists in the KR-I and the disputed areas, including 70 instances in which media was prevented from covering events, 43 cases of assault, insult, and beating, 13 cases of arrest, one case of death, four cases of shooting, and two cases of closure of television channels; Rudaw, Journalists Barred from Events Biggest Press Problem in 2018: Local Watchdog, 13 January 2019, https://bit.ly/2IKVxkB.


7) Humanitarian Workers

Over the years, individuals working for UN organizations or national and international non-governmental humanitarian organizations have been a target of attacks by mainly ISIS, including on account of perceptions that they are affiliated with the US, or with opposing parties to the conflict. Forms of targeting are reported to include intimidation, physical assault, arrest and detention, and, in some cases, abduction and killing. Humanitarian workers in IDP camps with a presence of armed actors are particularly vulnerable to attacks, specifically those providing legal assistance to families related to real or perceived ISIS members.

UNHCR considers that humanitarian workers may be in need of international refugee protection on the basis of their political opinion or imputed political opinion, and/or other relevant grounds, depending on the individual circumstances of the case.

8) Women and Girls with Certain Profiles or in Specific Circumstances

Women and girls are reported to face legal and societal discrimination and specific forms of violence on account of their gender, including sexual violence, domestic violence, “honour”-based violence, forced and child marriage, FGM and trafficking for the purpose of sexual exploitation and forced prostitution.

504 The International NGO Safety Organisation (INSO) recorded four fatalities and one injury involving national NGO staff in 2018. However, no information is available whether these casualties had criminal or conflict-related causes. In total, 93 security incidents involving NGO workers were recorded between January and December 2018. Over half of these incidents (58 per cent) were qualified as “assaults”, in addition to “arrest/detention”, “direct fire”, “intimidation”, “robbery” and “IED/Ordinance”; INSO, NGO Incident Rate – Jan to Dec 2018, accessed 30 April 2019, www.ngosafety.org/country/iraq. On reported attacks against humanitarian workers in 2017 and preceding periods, see also, Humanitarian Outcomes, Aid Worker Security Database, last updated 23 April 2019, https://bit.ly/2Rppjpkw.

505 UNHCR and others have recorded incidents of harassment and threats against humanitarian workers by armed actors present in IDP camps: “A continued military presence in camps across Iraq, the sexual harassment of women and girls, diversion of humanitarian assistance, detention and disappearance of camp residents, recruitment activities inside the camps and armed actors’ attacks on humanitarian staff, despite the Prime Minister’s 2017 directive on the civilian character of camps, remain deeply concerning” (emphasis added); Special Representative of the UNSG for Iraq, Briefing to the Security Council by SRSG for Iraq Ján Kubiš, 30 May 2018, https://bit.ly/2O3k6eP. See also Humanitarian Outcomes, Aid Worker Security Database, last updated 23 April 2019, https://bit.ly/2Rppjpkw [see incident recorded for 7 January 2019 concerning the treatment of a guard at an IDP camp south of Mosul]. See also, Section II.8 (“Humanitarian Situation”).

506 See Section III.A.1 (“Persons Wrongly Suspected of Supporting ISIS”).


509 “According to preliminary data for 2018, the total number of reported acts of violence against women (excluding murders and suicides) has exceeded the total for 2017 (7,129 compared with 6,987). Ineffective preventive and response measures continue...”
Women without male support provided by their family or tribal network, including widows, and those who escaped situations of domestic violence, "honour" crimes, or forced or child marriage, are reported to be particularly vulnerable to further abuse, exploitation and trafficking. Single mothers and their children are reported to face social rejection and stigmatization.

In the KR-I, the authorities introduced a number of legislative and institutional reforms aimed at addressing violence against women. Despite these efforts, gender-based violence is reported to remain high, including as a result of weak implementation and predominant patriarchal gender norms.

In all of Iraq, most cases of violence against women are thought to remain unreported due to high levels of social stigmatization. Societal perceptions that domestic issues should be dealt with as private matters and fears of stigmatization prevent women from seeking help or reporting violent acts.

**Note:**


Most notably, the KRG authorities passed the Act of Combating Domestic Violence in the Kurdistan Region of Iraq (Law No. 8 of 2011), which, inter alia, prohibits violence within marriage, FGM and forced and child marriage. Furthermore, specific bodies to deal with women’s rights have been established; LSE, Gender Equality in Iraq and Iraqi Kurdistan, 5 January 2018, [https://bit.ly/2xDGWym](https://bit.ly/2xDGWym); Iraq: Act of Combating Domestic Violence in the Kurdistan Region of Iraq (Law No. 8 of 2011), 21 June 2011, [www.refworld.org/docid/5b2911044a.html](www.refworld.org/docid/5b2911044a.html). See also, Crescent Journal of Medical and Biological Sciences (CJMB), Women’s Health and Status in the Kurdistan Region of Iraq: A Review, Vol. 5(2), April 2018, [https://bit.ly/2qnetJY](https://bit.ly/2qnetJY), p. 72.

"Head of the General Directorate of Combating Violence Against Women Kurdistan Omar told NRT channel on Nov. 6 [2018] that in the first 10 months of 2018, violence against women has increased both at home and at work, particularly sexual violence." According to official statistics, "[t]he first nine months of this year [2018], 91 women were killed or ‘committed suicide’ in the Kurdistan region, 203 women either ‘burned themselves’ or were burned, 87 sexual assault cases were recorded, and 7,191 women complained about being subjected to violent acts (…)"; Al-Monitor, Iraqi Kurdistan Struggles to End Violence Against Women, 18 December 2018, [http://almon.co/35bq](http://almon.co/35bq).

"(…) the legal changes and measures in the KRI have not necessarily led to meaningful and significant changes in practice. There is a significant time gap between the adoption and implementation of new laws and policies, and judges (mostly male) do not always implement the new laws that provide gender equality and fairness. The vague reference to Sharia Law in the Iraqi Constitution also leads judges to interpret Islamic rules differently"; LSE, Gender Equality in Iraq and Iraqi Kurdistan, 5 January 2018, [https://bit.ly/2xDGWym](https://bit.ly/2xDGWym). "(…) laws are not often supported by implementation mechanisms, and economic conditions have severely restricted the availability of resources for implementation"; UNAMI, Report on Human Rights in Iraq: January to June 2017, 14 December 2017, [www.refworld.org/docid/5a746d804.html](www.refworld.org/docid/5a746d804.html), p. x; Contemporary Review of the Middle East, Fragile State in Iraq and Women Security, Vol. 4(3), July 2017, [https://bit.ly/2CX5q2E](https://bit.ly/2CX5q2E), pp. 14-15; Reuters, Iraqi Widows, Mothers and Girls Face Heightened Risks in Displaced Camps, 7 April 2016, [https://reut.rs/2OjkZBK](https://reut.rs/2OjkZBK).


"[2018]"
“family matters”, lack of police and judicial personnel trained to deal with gender-based violence cases, as well as a lack of protective legislation.

Although the Iraqi government has opened some shelters in recent years, their capacity and outreach reportedly remains limited. In addition, a local NGO runs a number of secret safe houses; however, the Government considers these shelters to be illegal. As a result, they are at risk of closure as well as raids and attacks by security forces, affiliated forces, as well as family members, who perceive

...
them as places “where a group of immoral women reside without a male guardian”. During such raids, the women are reportedly at risk of being handed over to their families. In the KR-I, the Ministry of Social Affairs is reported to be operating shelters for female survivors and those at risk of domestic violence and trafficking. In addition, some local NGOs have reportedly been permitted to operate shelters for women fleeing domestic violence. Both government and NGO-run shelters are reported to suffer from a lack of funding, limited capacity, poor quality of services as well as security risks. A major obstacle for women to access government-run shelters in the KR-I is that admission requires a judicial order, meaning that formal legal proceedings must be initiated against the perpetrator.

Observers indicate that, unless shelter staff, law enforcement officials or community leaders reach a mediated agreement with the woman’s family, the woman has no prospects for a future outside the shelter. Even if a family pledges not to harm the woman or girl upon return from the shelter, she may still be subjected to forced marriage or other forms of violence, including “honour killings”.

Violence against women and girls is particularly targeted against those with the following specific profiles or circumstances:

---

525 JIA, Countering Iraq’s Anti-Shelter Policy in the Islamic State Era, 28 March 2018, http://bit.ly/2yqK1mL. “There is no modality of women living independently. In the very conservative mindset that prevails, the only interpretation of a house where single women live is that it’s a brothel. (...) Someone escaping the threat of honor killing is seen as a fugitive who has done something wrong. Therefore, a shelter is not seen as providing sanctuary to innocent victims; it’s seen as harboring people who have broken social norms and deserve punishment”; MERIP, “ISIS Is One Piece of the Puzzle”. MER276, summer 2018, https://bit.ly/2yqK1mL. See also, Oxfam, Gender and Conflict Analysis in ISIS Affected Communities of Iraq, 30 May 2017, https://bit.ly/2yuLRCT, p. 34.


531 Statistics from the General Directorate to Combat Violence Against Women (GDCVAW) show that in the majority of cases the women leave the shelter after “a guardian has guaranteed their safety or their problems were considered resolved”; UNAMI, Report on Human Rights in Iraq: July to December 2017, 8 July 2018, www.refworld.org/docid/5b6afc544.html, p. 13. See also, Al-Jazeera, Combating Domestic Violence in Iraq’s Kurdish Region, 7 October 2018, https://bit.ly/2CnHhg1.
a) Women in the Public Sphere

Women active in political and social spheres, including rights activists,532 election candidates, businesswomen, journalists,533 as well as models and beauty contestants, are reported to have been subjected to intimidation, harassment and threats,534 often forcing them to withdraw from the public sphere, or to flee the country.535 In September 2018, a series of assassinations of prominent women was reported, including the killings of a civil rights activist in Basrah and a social media figure in Baghdad,536 raising concern over the increased targeting of women perceived as contravening social mores and traditional gender roles.537

b) Sexual Violence

Women and girls are reported to be at risk of rape and other forms of sexual violence at the hands of state and non-state actors in a wide array of circumstances, including in IDP situations;538 in forced

---


538 “According to Omar Mohammed, the founder of Mosul Eye, a network of activists from Mosul, men have formed prostitution rings in some camps, forcing women to engage in sex work. The victims routinely undergo abortions to deal with the unwanted pregnancies. (…) Mohammed told Foreign Policy that the trade of women has become so organized that women would be taken to Mosul to work as prostitutes, and then are brought back to the camps, while other women are traded between camps”; Foreign Policy, Among Displaced Iraqis, One Group Is Worse Off than the Rest, 29 April 2019, https://bit.ly/2J7jBW. “Sexual and gender-
marriages or child marriages;\textsuperscript{539} and when forced into prostitution or trafficked for sexual purposes.\textsuperscript{540} Survivors of sexual violence are reportedly often unwilling to report the violence or initiate legal proceedings.\textsuperscript{541} Moreover, Article 398 of the Penal Code provides that charges may be dropped if the assailant marries the victim.\textsuperscript{542}

ISIS is reported to have used extreme gender-based violence against women and girls, including abduction, forced and child marriage, rape and other forms of sexual violence, sexual enslavement, and forced abortion.\textsuperscript{543} Survivors of ISIS atrocities remain vulnerable to stigma and/or being treated as ISIS affiliates rather than victims.\textsuperscript{544} For the Yazidi community, the issue of stigmatization is said to have been addressed, to some extent, by appeals by the community’s now deceased spiritual leader, Baba Sheikh, who called for the reintegration of women and girls who had been subjected to ISIS enslavement into the community.\textsuperscript{545} Nonetheless, Yazidi survivors reportedly fear or experience social stigma and discrimination.\textsuperscript{546}

On 7 April 2019, President Barham Saleh announced a law, which would provide for reparation measures to Yazidi female survivors of ISIS captivity. At the time of writing, the law has yet to be enacted.
by the Parliament.\textsuperscript{547} Independent of the law, on 18 April 2019, the Minister for Displacement and Migration announced the start of a programme that provides each Yazidi female survivor with two million Iraqi Dinars (approximately USD 1,600).\textsuperscript{548}

c) Domestic Violence

Domestic violence is reported to be increasing\textsuperscript{549} and to remain widely accepted in society.\textsuperscript{550} In areas under control of the central government, there is no adequate legal framework protecting victims from domestic violence.\textsuperscript{551}

In the KR-I, domestic violence has been explicitly banned since 2011 and the authorities established special law enforcement, judicial and other bodies to address violence against women.\textsuperscript{552} However, the number of domestic violence incidents is reported to remain high,\textsuperscript{553} and domestic violence is frequently committed with impunity due to gaps in the implementation of the law.\textsuperscript{554}

\textsuperscript{547} The draft law applies to "Yazidi women survivors who were abducted by the Da'esh terrorist gangs after 10/6/2014 and released after this date." In Article 4 it identifies five goals: compensation of survivors financially and morally; rehabilitation and care of survivors; providing a decent life for survivors; rehabilitation of infrastructure in survivors' areas; and preparing the means to integrate survivors into society. The "Yazidi Survivors Law" (in Arabic) is available at: https://bit.ly/2J4cIBL. The draft law has been criticized for its limited scope as it does neither apply to male Yazidi survivors nor to survivors from other communities, and does not refer to human rights violations other than "abduction". Furthermore, the draft law states that "children of a female Yazidi survivor shall be subject to applicable laws." Based on applicable law, children born to a Muslim father would automatically be considered as Muslims, irrespective of the mother's religion. The Iraqi government has to date not undertaken any efforts to amend laws that impose the Muslim religion onto children born to Yazidi mothers; LSE, 'Iraq's Reparation Bill for Yazidi Female Survivors: More Progress Needed', 26 April 2019, https://bit.ly/2J16YT5; Al-Monitor, 'Iraqi Bill on Yazidi Female Survivors Stirs Controversy', 25 April 2019, http://almon.co/378s. See also, Raseef 22, 'Iraq Debates Law Compensating Yazidi Survivors of ISIS Sexual Abuse', 29 April 2019, https://bit.ly/2UUpjg; Forbes, 'Let The Children Be Yazidis', 3 April 2019, https://bit.ly/2URKGb; Kurdistan 24, 'Iraq Begins Payment of 2 Million Dinars to Each Female Yazidi Survivor', 18 April 2019, https://bit.ly/22D50yK.


\textsuperscript{549} According to Article 41 of the Penal Code, men have the legal right to "discipline" their wives and children. While the Penal Code specifies that discipline is permissible only "within certain limits prescribed by law or by custom", no criteria are provided to determine when a threshold is breached; Republic of Iraq, Penal Code, Law No. 111 of 1969, July 1969, www.refworld.org/docid/4525243040.html. A draft Family Protection Law reportedly remains stalled before the Council of Representatives; UNAMI, 'Report on Human Rights in Iraq: July to December 2017', 8 July 2018, www.refworld.org/docid/5b6af544.html, p. 12. See also, Al Jazeera, 'Women in Iraq Push to Criminalise Domestic Violence, 21 March 2019, http://bit.ly/2Ye0uWJ.


\textsuperscript{552} See above footnote 514.
d) “Honour”-Based Violence

Violence committed by family members to protect the honour of the family or tribe\(^555\) reportedly remains widespread,\(^556\) and is “cutting through religious and ethnic divides, with a strong tribal element and linked with the strong patriarchal society”.\(^557\) Women and girls and, to a lesser extent, men and boys, may be killed or subjected to other types of violence because they are perceived to have transgressed cultural, social or religious norms, thereby bringing shame to their family.\(^558\) “Honour”-based violence is said to occur for a variety of reasons, including (perceived) adultery, loss of virginity (even by rape), refusal of an arranged marriage, attempt to marry someone against the wishes of the family, or seeking a divorce.\(^559\)

The Iraqi Penal Code allows for lenient punishments for “honour killings” on the grounds of provocation or if the accused had “honourable motives”.\(^560\) “Honour crimes” are reported to be frequently committed with impunity given the high level of societal acceptance, including among law enforcement officials, of this type of crime as a supposedly appropriate response to perceived transgressions of “honour”.\(^561\)

In the KR-I, the authorities have taken steps to combat the practice and repealed articles of the Penal Code that permit reasons of “honour” as mitigation for crimes committed against family members.\(^562\) Despite these measures, “honour crimes” are reported to remain widespread and are frequently committed with impunity due to a lack of effective implementation of the law.\(^563\) “Honour killings” are reportedly often concealed as suicides or accidents to avoid prosecution.\(^564\)

---

\(^555\) “Honour killings” can be defined as “the arbitrary deprivation of life of women and girls (but possibly also men and boys) by (male) family members or tribal members, because they are deemed to have brought shame or 'dishonour' on the family or tribe”; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, para. 40.


\(^559\) Articles 128, 130, 131 and 409 of the Penal Code (Act No. 111 of 1969) permit honour considerations to mitigate sentences for this type of crime as a supposedly appropriate response to perceived transgressions of “honour”.

\(^560\) “Honour killings” can be defined as “the arbitrary deprivation of life of women and girls (but possibly also men and boys) by (male) family members or tribal members, because they are deemed to have brought shame or ‘dishonour’ on the family or tribe”; UN Human Rights Council, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 5 June 2018, www.refworld.org/docid/5b7ad39d4.html, para. 40.


\(^563\) “Honour killings” are reportedly often concealed as suicides or accidents to avoid prosecution.
In some cases, women at risk of “honour killings” are reportedly kept in prisons or detention centres for their own protection,\(^ {565} \) while others seek protection in formal or informal temporary shelters.\(^ {566} \)

**e) Forced and Child Marriage**

The practice of forced marriage, including specific practices such as bride exchanges\(^ {567} \) and marriages in exchange for blood money (\(\text{fasliyah}\)),\(^ {568} \) reportedly remains prevalent,\(^ {569} \) despite legal prohibitions.\(^ {570} \) At times, family members force women and girls into temporary marriages (\(\text{muta’a}\))\(^ {571} \) for the purpose of financial benefit or to pay off a debt.\(^ {572} \) Temporary marriages are not legally

---


\(^{566}\) Under this custom, an inter-tribal conflict is resolved by one tribe giving one or several girls or women for marriage to another tribe. In this type of marriage, the woman has no right to divorce and is likely to be exposed to abuse; see Channel News Asia, In Iraq, Tribal Traditions Rob Women, Girls of Rights, 18 April 2019, http://po.st/OTINpT; UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, www.refworld.org/docid/5a686f44.html (and sources contained therein). See also Section III.A.11 (“Individuals Targeted as Part of Tribal Conflict Resolution, Including Blood Feuds”).


\(^{569}\) Article 9(1) of the Personal Status Law provides that a forced marriage is void. However, it stipulates that once the marriage has been consummated, the marriage is considered valid by law, leaving those subjected to a forced marriage without legal protection. Cases of forced marriage are reportedly only reviewed by a court if the victim files a complaint and throughout the court proceedings no protective measures will be in place; CRC, Concluding Observations on the Combined 2nd to 4th Periodic Reports of Iraq, 3 March 2015, www.refworld.org/docid/562de4494.html, para. 48. In the KR-I, forced and exchange marriages are prohibited, see: Iraq: Act of Combating Domestic Violence in the Kurdistan Region of Iraq (Law No. 8 of 2011), 21 June 2011, www.refworld.org/docid/5b2911044.html, article 2.


---
recognized and women and girls who were married in this way do therefore not have inheritance, alimony or child support rights.\textsuperscript{573}

Child marriages are reported to occur throughout Iraq at increasing rates.\textsuperscript{574} The legal age for marriage is 18, which applies to Iraqis of all sects.\textsuperscript{575} The minimum age can be lowered to 15 years with the consent (or non-objection) of the legal guardian,\textsuperscript{576} or, if considered “an urgent necessity” by the judge.\textsuperscript{577} In the KR-I, the minimum age for marriage is 16, if authorized by a judge.\textsuperscript{578}

Marriages of girls below the legal minimum age are concluded according to religious customs and are not recognized under the law.\textsuperscript{579} As a result, children born to the couple will have no civil identification cards until the marriage is legally recognized.\textsuperscript{580}

Forced marriages and child marriages have been linked to domestic violence, suicide, “honour killings”,\textsuperscript{581} as well as trafficking.\textsuperscript{582}

f) Female Genital Mutilation (FGM)

There is no federal law specifically outlawing FGM; however, a law in the KR-I has banned the practice since 2011.\textsuperscript{583} While the prevalence of FGM is reported to be declining among girls in the KR-I,\textsuperscript{584} it is reportedly still practised, mostly, but not exclusively, among rural communities in Sulaymaniyah and


\textsuperscript{575} Article 7(1) of the Personal Status Law. In recent years, there have been attempts by conservative political parties to amend the Personal Status Law, which would, \textit{inter alia}, allow for Shi'ite girls to be married from age nine; see e.g., HRW, \textit{Iraq: Parliament Rejects Marriage for 8-Year-Old Girls}, 17 December 2017, \url{www.refworld.org/docid/6a3926874.html}.

\textsuperscript{576} Article 8(1) of the Personal Status Law.

\textsuperscript{577} Article 8(2) of the Personal Status Law. The law provides no definition as to what “an urgent necessity” would constitute, leaving it at the discretion of the judge.


\textsuperscript{580} See Section III.A.9 (“Children with Certain Profiles or in Specific Circumstances”).


\textsuperscript{582} “Traditional practices, including child forced and ‘temporary’ marriages and fasliya – the exchange of family members to settle tribal disputes – also place women and girls at increased risk of trafficking within the country”; US Department of State, \textit{2018 Trafficking in Persons Report – Iraq}, 28 June 2018, \url{www.refworld.org/docid/5b3e0b184.html}. See also below “Trafficking for the Purpose of Sexual Exploitation and Forced Prostitution”.

\textsuperscript{583} Iraq; \textit{Act of Combating Domestic Violence in the Kurdistan Region of Iraq (Law No. 8 of 2011)}, 21 June 2011, \url{www.refworld.org/docid/5b2911044.html}, article 2. See also, DW, \textit{Where Does the Arab World Stand on Female Genital Mutilation?}, 6 February 2018, \url{https://bit.ly/2V0I2d}.

Erbil Governorates. \(^{585}\) FGM has also been reported in other parts of Iraq, including in Kirkuk and southern governorates; however, its prevalence remains unclear due to a lack of studies. \(^{586}\)

g) Trafficking for the Purpose of Sexual Exploitation and Forced Prostitution

Despite a number of positive legal and administrative steps taken by the central authorities and the KRG to combat trafficking, \(^{587}\) observers note continued challenges in relation to the enforcement of the law. \(^{588}\) Iraq is both a source and destination country for women and children subjected to trafficking for the purpose of sexual exploitation and forced prostitution. \(^{589}\) Women who have escaped situations of domestic violence and/or forced or early marriage are particularly vulnerable to trafficking and it has been reported that women in government-run shelters have been targeted for trafficking for the purpose of forced prostitution. \(^{590}\) In the KR-I, a more recent development has been the use of (real or manipulated) intimate photos or videos to force women and girls into prostitution. \(^{591}\) Traditional


\(^{586}\) “In Dohuk, FGM rates have been traditionally low, the majority Kurmanji population does not practice FGM: Only 7.4% of mothers here said to be cut”; Stop FGM Middle East, Heartland Study Shows Steep Decline of FGM Rates in Iraqi Kurdistan, 10 January 2017, http://bit.ly/2Ae9D9M.

\(^{587}\) Kirkuk Governorate reportedly has “a much higher rate of FGM vis-à-vis rest of the country”; Law School Policy Review, Female Genital Mutilation: The Horror, the Suffering, and the Pain, 24 September 2018, http://bit.ly/2P3VqHl. In 2016, the percentage of women having undergone FGM in the Kirkuk Governorate was reported to be around 14 per cent; DW, Changing Minds about Genital Mutilation in Iraqi Kurdistan, 3 March 2016, http://bit.ly/2RTf77k. Data from a 2014 study covering 1,000 women from urban and rural areas of Qadissiyah and Wasit Governorates suggests that 25.7 per cent among this population was subjected to FGM in childhood. “(…) the assertion that FGM does not take place in central and southern Iraq is unwarranted and misleading”; MRGI/Ceasefire Centre, Family-Based Violence during Armed Conflict, 5 November 2015, http://bit.ly/1O57aeK, p. 32; WADI, One in Four Women in Central and Southern Iraq Is Affected by Female Genital Mutilation, New Study Suggests, 14 July 2014, https://bit.ly/299XAPN.


\(^{589}\) “Of significant concern (…) are allegations of complicity of government officials including political officers, law enforcement (LE), Asayish forces, and camp management in TIP [trafficking in persons] within the KR-I. Repors indicate that government officials have not been held accountable for involvement in TIP and have caused some VOT [victims of trafficking] and anti-TIP actors to fear retaliation should cases be reported to relevant authorities”; Seed Foundation / Center for Mental Health and Psychosocial Support Services, Human Trafficking in the Kurdistan Region of Iraq, December 2018, https://bit.ly/2VLmDk, p. 26. “Human trafficking is also a problem, and IDPs are particularly vulnerable. Thus far, the government’s efforts to enforce trafficking laws have been inadequate”; Freedom House, Freedom in the World 2019 – Iraq, 4 February 2019, www.freedomhouse.org/report/freedom-world-2019/iraq. See also, US Department of State, 2018 Trafficking in Persons Report – Iraq, 28 June 2018, www.refworld.org/docid/5b3e0b184.html; MADRE et al., Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq, 8 November 2017, http://bit.ly/2PDL09P, p. 75.


\(^{591}\)*Reports also included trafficking of women out of government run shelters, with traffickers offering women with no option of returning to their won communities or a safe place to stay outside the shelter but later selling them into forced prostitution. Specifically, female traffickers have been known to feign experiencing domestic violence to be allowed into the shelter as a victim, then buold trust with other women within the shelter, offering them a safe place to stay in the community once released”; Seed Foundation / Center for Mental Health and Psychosocial Support Services, Human Trafficking in the Kurdistan Region of Iraq, December 2018, https://bit.ly/2VLmDk, p. 16.

*“Given the conservative nature of society, women or girls who engage in flirtatious or intimate personal relations are vulnerable to exploitation and trafficking for fear that their families may target them for ‘honor-based’ violence if their actions become known.”

UNHCR / May, 2019 95
practices such as forced, temporary and child marriages are reportedly used for trafficking women and girls. Survivors of trafficking, including children, are reported to have been prosecuted for illegal acts committed as a result of being trafficked, including for prostitution. Survivors of trafficking may be at risk of "honour" violence at the hands of their families.

Depending on the individual circumstances of the case, UNHCR considers that women falling in the following categories are likely to be in need of international refugee protection:

a) Survivors and those at risk of sexual violence, domestic violence, "honour"-based violence, or FGM;

b) Those at risk of forced and/or child marriage;

c) Survivors and those at risk of trafficking for the purpose of sexual exploitation and forced prostitution.

UNHCR considers that women and girls falling in the following categories may be in need of international refugee protection, depending on the individual circumstances of the case:

a) Women in the public sphere;

b) Women and girls without genuine family support, including widows and divorcees.

Depending on the individual circumstances of the case, women and girls of these profiles or in these specific circumstances may be in need of international refugee protection on the basis of a well-founded fear of persecution at the hands of State or non-State actors for reasons of their membership of a particular social group, their religion, or their (imputed) political opinion, combined with a general unavailability of State protection from such persecution where the actors of persecution are non-State actors.

For women and girls targeted on account of their real or perceived political opinion, their religious or ethnic identity, or their diverse sexual orientations and gender identities, see also other profiles in Section III.A.

9) Children with Certain Profiles or in Specific Circumstances

Children may fall within a number of the other risk profiles contained in these guidelines. In particular, children of real or perceived ISIS members or supporters are reportedly subject to arbitrary arrest and
detention, retaliatory violence and discrimination at the hands of state and non-state actors.\textsuperscript{595} Children are also reported to be at risk of child-specific forms or manifestations of persecution,\textsuperscript{596} including SGBV, forced and/or child marriage, and “honour crimes”;\textsuperscript{597} domestic violence;\textsuperscript{598} underage recruitment, sometimes by force, in particular by government-affiliated groups;\textsuperscript{599} worst forms of child labour, including trafficking, forced labour and commercial sexual exploitation;\textsuperscript{600} as well as hazardous work likely to harm their health, safety or morals such as begging, street vending, and working in brick factories and in cemeteries.\textsuperscript{601}

See Section II.A.1 (“Persons Wrongly Suspected of Supporting ISIS”).


See Section II.A.8 (“Women and Girls with Certain Profiles or in Specific Circumstances”).

With the exception of the KR-I, corporal punishment, while outlawed in detention centres and prisons, remains lawful in the private sphere and in alternative care settings, at schools and in juvenile rehabilitation centres; Republic of Iraq, Penal Code, No. 111 of 1969, July 1969, www.refworld.org/docid/452524304.html, Article 41(1); Iraq, Act of Combating Domestic Violence in the Kurdistan Region of Iraq (Law No. 21 of 2017), www.refworld.org/docid/5b9110344.html. See also, NINA, How Can Iraq Address Child Abuse, Torture?, 2 May 2017, http://almon.co/2uuj. See also Section III.A.8 (“Women and Girls with Certain Profiles or in Specific Circumstances”).

The recruitment and use of children by tribal forces, PMF and the PKK/YPG in Iraq continues to be reported: “The recruitment and use of children by tribal forces, PMF and the PKK/YPG in Iraq continues to be reported: “...” See Section II.A.8 (“Women and Girls with Certain Profiles or in Specific Circumstances”).

The recruitment and use of children by tribal forces, PMF and the PKK/YPG in Iraq continues to be reported: “The government had limited ability to address and prevent the recruitment and use of children by these groups, including some units of AAH [Abaa’ib Ahl Al-Haq] and KH [Kata’ib Hezbollah] militias. The government also did not prevent PMF units in southern Iraq from child recruitment and sponsoring military training camps for high school students, which included some children under the age of 18. However, to dissuade PMF commanders from accepting children who volunteered to fight, the government refused to enroll child volunteers in pay programs and did not provide salaries for any child volunteers.” And further: “As of early 2018, multiple sources reported the PKK and YPG operating in the IKR continued to recruit and use children”; US Department of State, 2018 Trafficking in Persons Report – Iraq, 28 June 2018, www.refworld.org/docid/5b3e0b184.html. See also, UNSC, Report of the Secretary-General on Children and Armed Conflict, 12 February 2018, https://bit.ly/2NcZwWk, paras 75, 85; HRW, Flawed Justice, 4 December 2017, www.refworld.org/docid/5a2651964.html, p. 20. Between 2014 and 2017, ISIS was the main actor recruiting and using children in hostilities. Since the group lost territorial control in 2017, limited reports on child recruitment by ISIS have been received; see e.g. NINA, Diwla Police Revealed the Foiling of the Recruitment of 117 Citizens, Including Four Teenagers by Daesh, 30 December 2018, https://bit.ly/2GWxexZ; Rehabilitation and reintegration support for former child soldiers recruited by ISIS is reportedly insufficient; instead, children associated with ISIS are reportedly at risk of arrest, detention, torture and prosecution on terrorism-related charges; US Department of State, 2018 Trafficking in Persons Report – Iraq, 28 June 2018, www.refworld.org/docid/5b3e0b184.html; Atlantic Council, Rehabling ISIS’ Child Soldiers, 21 September 2017, https://bit.ly/2vpd7Kz; The Clarion Project, Recovery & Rehabilitation of ISIS Children: Is It Possible?, 30 March 2017, https://bit.ly/2znqKUln. See also, Section II.A.1 (“Persons Wrongly Suspected of Supporting ISIS”).


Despite laws against child labour, large numbers of children are compelled to work to be able meet their and their families’ basic needs. For the different types of child labour prevalent in Iraq, some of which may constitute hazardous work, see US Department of Labor, 2017 Findings on the Worst Forms of Child Labor – Iraq, 20 September 2018, www.refworld.org/docid/5b9d05ace2.html. Table 2. Child labour is reported to be particularly prevalent in areas (formerly) affected by conflict as well as among vulnerable IDP populations; Rudaw, Iraq: “Children of Mosul’s Old City Selling Scrap Metal to Survive, 11 February 2019, http://bit.ly/1KQnAL4; AP, Mosul Children Collect Scrap Metal to Make a Living, 21 November 2018, https://bit.ly/2Awsytf; AFP, 595

596

597

598

599

600

601

UNHCR / May, 2019

97
Children born out of wedlock or to parents whose marriage was not officially registered, particularly children born in areas formerly under ISIS control, including as a result of sexual enslavement, are reported to be at risk of remaining without official legal status and documentation, abandonment as well as stigmatization and abuse. IDP children, children from socio-economically disadvantaged communities, and children born in areas formerly under ISIS control, including as a result of sexual enslavement, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’. Children born out of wedlock or to parents whose marriage was not officially registered, particularly those born in areas formerly under ISIS control, are reportedly not considered official marriages; Finnish Immigration Service, ‘Punished for the Crimes of Their Fathers’.
backgrounds as well as orphaned, abandoned and separated children,\textsuperscript{607} are reported to be particularly vulnerable to different forms of exploitation, including child labour, early and forced marriage, sexual exploitation, and trafficking, and many of them are exposed to several of these child-specific forms of abuse.\textsuperscript{608}

Children with disabilities and children from marginalized ethnic groups, particularly Roma and Black Iraqis, are often effectively excluded from accessing education.\textsuperscript{609}

\begin{quote}
UNHCR considers that children falling in the following categories \textbf{are likely to be in need of international refugee protection}:
\begin{itemize}
  \item [a)] Survivors and those at risk of sexual violence, domestic violence, forced and/or child marriage, “honour crimes”, or FGM;
  \item [b)] Survivors and those at risk of forced and underage recruitment, trafficking, and other worst forms of child labour.\textsuperscript{610}
\end{itemize}
\end{quote}

Depending on the individual circumstances of the case, they are likely in to be need of international refugee protection on the basis of a well-founded fear of persecution at the hands of State or non-State actors for reasons of their membership of a particular social group, their religion, their (imputed) political opinion, or other relevant Convention grounds.

UNHCR considers that children falling in the following categories \textbf{may be in need of international refugee protection}:

\begin{quote}
\begin{itemize}
  \item [a)] Children born out of wedlock or to parents whose marriage was not officially recognized;
\end{itemize}
\end{quote}
b) Children engaged in labour likely to harm their health, safety or morals (“hazardous work”), depending on the particular child’s experience, his/her age and other circumstances. 611

c) Children who are systematically prevented from accessing education, including as a result of discrimination, stigmatization, or discriminatory denial of access to birth registration or other civil documentation.

Depending on the individual circumstances of the case, they may be in need of international refugee protection on the basis of a well-founded fear of persecution at the hands of State or non-State actors for reasons of their membership of a particular social group or other relevant Convention grounds.

Regarding the international protection needs of children suspected of supporting ISIS, including on account of having been born as a result of forced marriage to and/or rape by an (alleged) ISIS affiliate, see Section III.A.1.

Claims for international protection submitted by children need to be assessed carefully and in accordance with the UNHCR Guidelines on child asylum claims, including any examination of exclusion considerations for former child soldiers. 612

10) Persons of Diverse Sexual Orientations and/or Gender Identities

a) Situation in Areas under Control of the Government

The Iraqi Penal Code does not expressly prohibit same-sex relations between consensual adults. 613 A range of vaguely-worded provisions in the Penal Code leave room for discrimination against and criminal prosecution of individuals accused of engaging in consensual same-sex sexual acts, e.g. on public indecency or prostitution charges; 614 however, it has been reported that these provisions have not been used in a systematic manner to prosecute same-sex sexual activity. 615

Since 2003, Iraq has seen several waves of heightened levels of targeted violence against persons of this profile, including individuals who are considered to transgress society’s norms for acceptable gender-specific behaviour. 616 The strengthening of non-state armed actors since 2014 is reported to

611 Ibid., para. 30.
612 Ibid.
616 HRW, LGBT Activism in the Middle East and North Africa, 16 April 2018, www.refworld.org/docid/5b34f0827.html, pp. 17-18; MADRE et al., Communication to the ICC Prosecutor Pursuant to Article 15 of the Rome Statute Requesting a Preliminary Examination into the Situation of: Gender-Based Persecution and Torture as Crimes Against Humanity and War Crimes Committed by the Islamic State of Iraq and the Levant (ISIL) in Iraq, 8 November 2017, http://bit.ly/2IX8Abh, pp. 24-33, 35; The
have compounded the vulnerability of persons of diverse sexual orientations and/or gender identities. Individuals of this profile, and those perceived to be of this profile, are reported to be often subjected to multiple forms of societal discrimination (e.g. in relation to access to employment and basic services) and violence, including harassment (e.g. at checkpoints), threats, physical and sexual violence, kidnappings and, in some cases, killings at the hands of different state and non-state actors.


According to IraQueer, “(...) police forces and security guards stop individuals at checkpoints who look different, or if they are transgender and going through hormonal treatment, comparing how they look in the present with the picture that looks different on their identification cards. IraQueer has video of individuals being humiliated and physically abused in such situations”; The Daily Beast, Murdered for ‘Looking Gay’, 7 June 2017, http://thebea.st/2FRfNKU. See also, IraQueer, The State of LGBT+ Human Rights in Iraq, June 2018, https://bit.ly/2iDR5iG, p. 13.

Members of Iraqi society are reported to generally not accept the notion that individuals may have a sexual identity that is other than heterosexual; instead, individuals who engage in consensual same-sex acts are regularly perceived to be "abnormal." Influential Shi'ite cleric Muqtada Al-Sadr, who in 2016 called for members of the Saraya Al-Salam (part of PMF, formerly Mahdi Army) to not target homosexuals, expressed his view that "homosexuality is a psychological illness and mental instability that makes men want to look like women, and that it is forbidden in all kinds, and that they should be isolated socially." IraQueer, Muqtada Al-Sadr Calls Against Violence Against LGBT+ Individuals, undated, https://bit.ly/2pwWolj. See also, HRW, Human Rights Watch Country Profiles: Sexual Orientation and Gender Identity, 23 June 2017, www.refworld.org/docid/5ab8c9a44.html. On the media's use of derogatory and homophobic language, see e.g. IraQueer, The State of LGBT+ Human Rights in Iraq, June 2018, https://bit.ly/2DR5SG, pp. 11, 14; HRW, LGBT Activism in the Middle East and North Africa, 16 April 2018, www.refworld.org/docid/5b34f0827.html, p. 21; UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, www.refworld.org/docid/5a56d8494.html, footnotes 9 (with additional sources); The Daily Beast, Murdered for 'Looking Gay', 7 June 2017, http://thebea.st/2FRNKU. See also Section II.E.2.b ("Human Rights Abuses by Family, Tribe, Community").

Members of Iraqi society are reported to generally not accept the notion that individuals may have a sexual identity that is other than heterosexual; instead, individuals who engage in consensual same-sex acts are regularly perceived to be "abnormal." Influential Shi'ite cleric Muqtada Al-Sadr, who in 2016 called for members of the Saraya Al-Salam (part of PMF, formerly Mahdi Army) to not target homosexuals, expressed his view that "homosexuality is a psychological illness and mental instability that makes men want to look like women, and that it is forbidden in all kinds, and that they should be isolated socially." IraQueer, Muqtada Al-Sadr Calls Against Violence Against LGBT+ Individuals, undated, https://bit.ly/2pwWolj. See also, HRW, Human Rights Watch Country Profiles: Sexual Orientation and Gender Identity, 23 June 2017, www.refworld.org/docid/5ab8c9a44.html. On the media's use of derogatory and homophobic language, see e.g. IraQueer, The State of LGBT+ Human Rights in Iraq, June 2018, https://bit.ly/2DR5SG, pp. 11, 14; HRW, LGBT Activism in the Middle East and North Africa, 16 April 2018, www.refworld.org/docid/5b34f0827.html, pp. 20-21; UNAMI, Report on Human Rights in Iraq: July to December 2016, 30 August 2017, www.refworld.org/docid/5a7470a84.html, p. 54; The Daily Beast, Murdered for 'Looking Gay', 7 June 2017, http://thebea.st/2FRNKU. See also footnotes 620 and 629.

"In Baghdad and the middle of Iraq the violence is actually more visible from groups supported by the government, who do killing campaigns. The latest one in January [2017] – we knew several people who were killed but there were rumours there was a list of 100 names. (...) Suspected community spaces have been burned down or bombed, and it hasn't been safe to meet up with people for at least six years – especially as people have been targeted via dating apps"; The Guardian, Where Are the Most Difficult Places in the World to be Gay or Transgender?, 1 March 2017, http://bit.ly/2WFdQ5. See also, IraQueer, The State of LGBT+ Human Rights in Iraq, June 2018, https://bit.ly/2DR5SG, pp. 12-13; HRW, LGBT Activism in the Middle East and North Africa, 16 April 2018, www.refworld.org/docid/5b34f0827.html, pp. 16-17; So Film (in French), Mystère Blonde, 1 September 2017, http://bit.ly/2GIGwuK; The Daily Beast, Murdered for 'Looking Gay', 7 June 2017, http://thebea.st/2FRNKU.

"Members of the trans community, in particular, face extreme danger simply by existing. Especially those who choose to undergo hormone treatment and show physical changes. The fact that hormone treatments are not legal may make transitioning even more dangerous for those individuals. Undergoing sex change operations are not permitted by the law. People who manage to undergo the surgery outside of Iraq face the difficulties in obtaining legal documents that reflect their post surgical identity"; IraQueer, The State of LGBT+ Human Rights in Iraq, June 2018, https://bit.ly/2DR5SG, pp. 10-11. See also, Vox, Trans Refugees Fled to Greece for a Better Life. They Found Intolerance, 6 March 2018, https://bit.ly/2oKauUnK.
and/or gender identities and to provide them with protection. As a result, individuals of diverse sexual orientations and/or gender identities are reported to refrain from reporting instances of discrimination, threats and violence to the police or other state authorities, for fear of their sexual orientation and/or gender identity being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.

Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) organizations are reported to not operate openly and activists working on the rights of individuals of diverse sexual orientations and gender identities are frequently subjected to threats, harassment and physical assault by state and non-state actors. Some civil society organizations reportedly run temporary safe houses in secret locations for individuals fearing harm. These safe houses are reported to operate outside any legal framework and at enormous risks for both the individuals as well as the organizations’ staff. For security reasons, these safe houses are operated only for short periods of time, normally several months, before they are either closed or relocated. They can only accommodate a small number of individuals at any given time in order not attract the attention of the authorities and other actors. IraQueer has documented instances of individuals having been killed by their family after they left a safe house.

The Iraqi Penal Code is also applicable in the KR-I and available information suggests that persons of diverse sexual orientations and/or gender identities have been arrested and at times prosecuted on public indecency or prostitution charges. According to reports, Kurdish society remains largely dominated by conservative cultural, religious and tribal values and practices, including a strong attachment to notions of gender roles and family “honour”, and there is limited tolerance for open identities being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.

b) Situation in the KR-I

The Iraqi Penal Code is also applicable in the KR-I and available information suggests that persons of diverse sexual orientations and/or gender identities have been arrested and at times prosecuted on public indecency or prostitution charges. According to reports, Kurdish society remains largely dominated by conservative cultural, religious and tribal values and practices, including a strong attachment to notions of gender roles and family “honour”, and there is limited tolerance for open identities being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported that Iraqi sources informed her about instances of individuals having been killed by their family after they left a safe house. For security reasons, these safe houses are operated only for short periods of time, normally several months, before they are either closed or relocated. They can only accommodate a small number of individuals at any given time in order not attract the attention of the authorities and other actors. IraQueer has documented instances of individuals having been killed by their family after they left a safe house.538

The Iraqi Penal Code is also applicable in the KR-I and available information suggests that persons of diverse sexual orientations and/or gender identities have been arrested and at times prosecuted on public indecency or prostitution charges. According to reports, Kurdish society remains largely dominated by conservative cultural, religious and tribal values and practices, including a strong attachment to notions of gender roles and family “honour”, and there is limited tolerance for open identities being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported that Iraqi sources informed her about instances of individuals having been killed by their family after they left a safe house. For security reasons, these safe houses are operated only for short periods of time, normally several months, before they are either closed or relocated. They can only accommodate a small number of individuals at any given time in order not attract the attention of the authorities and other actors. IraQueer has documented instances of individuals having been killed by their family after they left a safe house.538

The Iraqi Penal Code is also applicable in the KR-I and available information suggests that persons of diverse sexual orientations and/or gender identities have been arrested and at times prosecuted on public indecency or prostitution charges. According to reports, Kurdish society remains largely dominated by conservative cultural, religious and tribal values and practices, including a strong attachment to notions of gender roles and family “honour”, and there is limited tolerance for open identities being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported that Iraqi sources informed her about instances of individuals having been killed by their family after they left a safe house. For security reasons, these safe houses are operated only for short periods of time, normally several months, before they are either closed or relocated. They can only accommodate a small number of individuals at any given time in order not attract the attention of the authorities and other actors. IraQueer has documented instances of individuals having been killed by their family after they left a safe house.538

The Iraqi Penal Code is also applicable in the KR-I and available information suggests that persons of diverse sexual orientations and/or gender identities have been arrested and at times prosecuted on public indecency or prostitution charges. According to reports, Kurdish society remains largely dominated by conservative cultural, religious and tribal values and practices, including a strong attachment to notions of gender roles and family “honour”, and there is limited tolerance for open identities being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported that Iraqi sources informed her about instances of individuals having been killed by their family after they left a safe house. For security reasons, these safe houses are operated only for short periods of time, normally several months, before they are either closed or relocated. They can only accommodate a small number of individuals at any given time in order not attract the attention of the authorities and other actors. IraQueer has documented instances of individuals having been killed by their family after they left a safe house.538

The Iraqi Penal Code is also applicable in the KR-I and available information suggests that persons of diverse sexual orientations and/or gender identities have been arrested and at times prosecuted on public indecency or prostitution charges. According to reports, Kurdish society remains largely dominated by conservative cultural, religious and tribal values and practices, including a strong attachment to notions of gender roles and family “honour”, and there is limited tolerance for open identities being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported that Iraqi sources informed her about instances of individuals having been killed by their family after they left a safe house. For security reasons, these safe houses are operated only for short periods of time, normally several months, before they are either closed or relocated. They can only accommodate a small number of individuals at any given time in order not attract the attention of the authorities and other actors. IraQueer has documented instances of individuals having been killed by their family after they left a safe house.538

The Iraqi Penal Code is also applicable in the KR-I and available information suggests that persons of diverse sexual orientations and/or gender identities have been arrested and at times prosecuted on public indecency or prostitution charges. According to reports, Kurdish society remains largely dominated by conservative cultural, religious and tribal values and practices, including a strong attachment to notions of gender roles and family “honour”, and there is limited tolerance for open identities being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported that Iraqi sources informed her about instances of individuals having been killed by their family after they left a safe house. For security reasons, these safe houses are operated only for short periods of time, normally several months, before they are either closed or relocated. They can only accommodate a small number of individuals at any given time in order not attract the attention of the authorities and other actors. IraQueer has documented instances of individuals having been killed by their family after they left a safe house.538

The Iraqi Penal Code is also applicable in the KR-I and available information suggests that persons of diverse sexual orientations and/or gender identities have been arrested and at times prosecuted on public indecency or prostitution charges. According to reports, Kurdish society remains largely dominated by conservative cultural, religious and tribal values and practices, including a strong attachment to notions of gender roles and family “honour”, and there is limited tolerance for open identities being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others. Impunity is therefore reported to be widespread.
homosexuality and gender non-conformity. Public discourse around the rights of individuals of diverse sexual orientations and gender identities has reportedly slowly started to emerge, mostly led by one women’s organization and some media. Yet, most civil society actors report that working on LGBTI issues remains highly sensitive and they can work only in a very discreet manner and at personal risk.

Most individuals of diverse sexual orientations and/or gender identities are reported to be under pressure to keep their sexual orientation or gender identity secret in order to avoid discrimination (e.g. in relation to access to employment and medical care), harassment, threats, physical abuse and sexual violence at the hands of society, their families and the police, as well as as “honour killings” by their families. The police and security forces have been reported to engage in abuses

---


642 E-mail communication with UNAMI/OHCHR (e-mail on file with UNHCR), January 2019; Interview and e-mail exchange with Amir Ashour, IraQueer, November 2018 and April 2019.


644 “Members of the LGBTI community report losing their jobs when they are found out, or not being able to get a job in the first place because they are perceived to be different. (…) Anecdotally, HRO understands that LGBTI persons are extremely reluctant to identify themselves to medical workers, including for purposes of dealing with sexual health issues, because of the lack of privacy and threat of discrimination”: E-mail communication with UNAMI/OHCHR (e-mail on file with UNHCR), January 2019. IraQueer highlighted the difficulties faced by individuals of diverse sexual orientations and/or gender identities to access health and psychological care, including for survivors of ISIS atrocities; Interview and e-mail exchange with Amir Ashour, IraQueer, November 2018 and April 2019.


646 “The more common and more severe danger for LGBTI people comes from their own families, who may try to remove the dishonor of having an LGBTI person in the family by killing him or her. HRO is not aware of any LGBTI-related honor killings being officially reported as such in the Kurdistan Region in the last year and a half. As with all ‘honour killings’ this is understood to be because families would not report killings due to their own involvement or to avoid further shame on the family. Furthermore, persons connected to the victim may not report the crime out of fear of reprisals. Finally, police may be reluctant to investigate based on the assumption that such matters are internal to the family. However, HRO is aware of several individuals who reported that their families have threatened to murder them and have actively hunted them to do so”: E-mail communication with UNAMI/OHCHR (e-mail on file with UNHCR), January 2019. According to IraQueer, families would commonly cover up the real reasons for "honour crimes" perpetrated against individuals of diverse sexual orientations and/or gender identities, e.g. the killing might be blamed on...
against individuals of diverse sexual orientations and/or gender identities.\textsuperscript{647} Including harassment and arrests at checkpoints and in detention.\textsuperscript{648} Persons of diverse sexual orientations and/or gender identities are reported to be at “extremely high-risk” of trafficking for the purpose of commercial sexual exploitation, particularly in light of the lack of any safe place within theKR-I.\textsuperscript{649}

No specific shelters for individuals of diverse sexual orientations and/or gender identities at risk of harm are available in the KR-I. Women of diverse sexual orientations and/or gender identities in principle have access to women’s shelters in the KR-I; however, access depends on a court order, which requires the victim to file a report with the police.\textsuperscript{650} Men of diverse sexual orientations and/or gender identities do not have access to any shelters in the KR-I, although some civil society organizations have been providing temporary shelter in private accommodations or hotels to some individuals.\textsuperscript{651} Usually at considerable risk for both the victim and those involved in providing this support.\textsuperscript{652} Individuals of diverse sexual orientations and/or gender identities would often also lack the financial means to rent accommodation or to pay for a hotel room, as they commonly live outside their family support network.\textsuperscript{653}

In all areas of Iraq, individuals of diverse sexual orientations and/or gender identities are reported to refrain from reporting instances of discrimination, threats and violence to the police or other state authorities, for fear of their sexual orientation and/or gender identity being disclosed, legal prosecution on the basis of vague criminal provisions, and further harm at the hands of the authorities or others.\textsuperscript{654}

\textbf{UNHCR} considers that persons of diverse sexual orientations and/or gender identities are likely to be in need of international refugee protection\textsuperscript{655} on account of their membership of a particular social group and/or other relevant grounds, depending on the individual circumstances of the case.\textsuperscript{656}

\begin{itemize}
\item an extramarital affair with a person of the opposite sex. The police would consider such killings as a “family affair” and not investigate; Interview and e-mail exchange with Amir Ashour, IraQueer, November 2018 and April 2019. See also, Rudaw, LGBT Community Fear Living Openly in Kurdistan, 29 January 2019, https://bit.ly/2BfezJk.
\item “In some cases, police may fabricate crimes for which to arrest them, such as public indecency or prostitution. Accordingly, the police are by no means helpful for LGBTI people in danger from others”; E-mail communication with UNAMI/OHCHR (e-mail on file with UNHCR), January 2019. “Similarly, queer individuals, especially ‘masculine’ women, ‘feminine’ men, and trans people, have faced physical abuse in Northern Iraq under the Kurdistan Regional Government. Many of those individuals have been detained without being informed about their rights, or without access to legal representation”; IraQueer, The State of LGBT+ Human Rights in Iraq, June 2018, https://bit.ly/2iDR5iG, pp. 13-14.
\item According to IraQueer, rape has been used against individuals of diverse sexual orientations and/or gender identities as a means to “correct them”; Interview and e-mail exchange with Amir Ashour, IraQueer, November 2018 and April 2019.
\item The risk is reported to be particularly high for “men who manifest a ‘feminine’ behavioral expression or have undergone hormone therapy; transgender individuals; and men identifying as, or perceived to be gay. Fleeing from threats of or perpetrated violence within the home including molestation, rape and sexual exploitation, these individuals are often without safe shelter making them extremely vulnerable to CSE [commercial sexual exploitation]. Additionally, it was reported that it is often extremely difficult for LGBTI individuals to secure sustainable, safe employment, making it difficult for them to live independently”; Seed Foundation / Center for Mental Health and Psychosocial Support Services, Human Trafficking in the Kurdistan Region of Iraq, December 2018, https://bit.ly/2vDLmDk, p. 17.
\item E-mail communication with UNAMI/OHCHR (e-mail on file with UNHCR), January 2019; Interview and e-mail exchange with Amir Ashour, IraQueer, November 2018 and April 2019.
\item “Individuals who identify as LGBT+ remain at high risk in the community with no shelter or protections available to them”; Seed Foundation / Center for Mental Health and Psychosocial Support Services, Human Trafficking in the Kurdistan Region of Iraq, December 2018, https://bit.ly/2vDLmDk, p. 17.
\item According to UNAMI HRO, they may even run the risk of being told to leave the hotel or apartment on account of their actual or perceived sexual orientation and/or gender identity; E-mail communication with UNAMI/OHCHR (e-mail on file with UNHCR), January 2019. See also, Seed Foundation / Center for Mental Health and Psychosocial Support Services, Human Trafficking in the Kurdistan Region of Iraq, December 2018, https://bit.ly/2vDLmDk, p. 17.
\item Interview and e-mail exchange with Amir Ashour, IraQueer, November 2018 and April 2019. “Based on overall attitudes towards domestic violence, family matters, and LGBTI persons, we are of the opinion that authorities would offer no protection whatsoever to LGBTI persons at risk of violence from their families, let alone investigate or prosecute human rights abuses against LGBTI persons. LGBTI persons would not feel safe reporting incidents to the police, for fear of further victimization by the police”; E-mail communication with UNAMI/OHCHR (e-mail on file with UNHCR), January 2019. See also footnote 639.
\end{itemize}

For policy guidance related to determinations of refugee status based on sexual orientation and/or gender identity, decision-makers are referred to UNHCR, Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating
protection from such persecution is generally not available where the actors of persecution are non-State actors.

It should be borne in mind that persons of diverse sexual orientations and/or gender identities cannot be expected to conceal their identity in order to avoid persecution. Furthermore, the existence of significant criminal sanctions for consensual same-sex sexual acts is a bar to state protection, including where persecutory acts are perpetrated by non-state actors such as armed groups and members of society.

11) Individuals Targeted as Part of Tribal Conflict Resolution, Including Blood Feuds

A blood feud usually involves members of one family threatening to kill members of another family in retaliatory acts of vengeance carried out according to an ancient code of honour and behaviour. In Iraq, conflicts between (extended) families can reportedly be triggered by intentional or unintentional killing, but also by other offences such as the infliction of injury, loss of “honour” (e.g. as a result of the kidnapping or rape of a woman or girl, or socially unacceptable behaviour), theft, unpaid debts, or unresolved disputes over land, access to water supplies or property. Under tribal custom, male members of an extended family (“khamsa”) are obliged to avenge the injury or death of another member, be it in the form of killing someone from the murderer’s khamsa, or, more commonly, agreeing on financial compensation (blood money, “fasl” or “diyya” to the family of the victim”), which in turn ends the right to retribution. Despite being prohibited by law, inter-tribal conflicts are at times resolved by tribal justice rules. Legal Pluralism and Justice in Iraq after ISIL, paras 3-6.

A blood feud usually involves members of one family threatening to kill members of another family in retaliatory acts of vengeance carried out according to an ancient code of honour and behaviour. In Iraq, conflicts between (extended) families can reportedly be triggered by intentional or unintentional killing, but also by other offences such as the infliction of injury, loss of “honour” (e.g. as a result of the kidnapping or rape of a woman or girl, or socially unacceptable behaviour), theft, unpaid debts, or unresolved disputes over land, access to water supplies or property. Under tribal custom, male members of an extended family (“khamsa”) are obliged to avenge the injury or death of another member, be it in the form of killing someone from the murderer’s khamsa, or, more commonly, agreeing on financial compensation (blood money, “fasl” or “diyya” to the family of the victim”), which in turn ends the right to retribution.660 Despite being prohibited by law, inter-tribal conflicts are at times resolved by

11) Individuals Targeted as Part of Tribal Conflict Resolution, Including Blood Feuds

A blood feud usually involves members of one family threatening to kill members of another family in retaliatory acts of vengeance carried out according to an ancient code of honour and behaviour. In Iraq, conflicts between (extended) families can reportedly be triggered by intentional or unintentional killing, but also by other offences such as the infliction of injury, loss of “honour” (e.g. as a result of the kidnapping or rape of a woman or girl, or socially unacceptable behaviour), theft, unpaid debts, or unresolved disputes over land, access to water supplies or property. Under tribal custom, male members of an extended family (“khamsa”) are obliged to avenge the injury or death of another member, be it in the form of killing someone from the murderer’s khamsa, or, more commonly, agreeing on financial compensation (blood money, “fasl” or “diyya” to the family of the victim”), which in turn ends the right to retribution.660 Despite being prohibited by law, inter-tribal conflicts are at times resolved by
one tribe giving one or several girls or women for marriage to another tribe ("fasliyah"). In serious cases, the perpetrator’s tribe can “dishonour” the perpetrator and order his and his family’s (temporary or permanent) expulsion from the tribe. In particularly serious cases, such as in the case of “honour crimes” or the murder of a tribal leader, tribes may impose capital punishment on the culprit.

In instances in which tribes fail to resolve disputes between them through peaceful means, disputes can turn into blood feuds ("tha’r"). Such feuds, accompanied by armed confrontations with heavy weapons, abductions and killings, are reported to remain a common occurrence, particularly, but not exclusively, in the southern governorates, where the situation is reportedly compounded by the return of armed fighters who had fought against ISIS.

Tribal justice has reportedly also gained renewed strength in formerly ISIS-held areas as many tribes are reported to consider the formal justice system ineffective to deal with those considered guilty of atrocities committed by ISIS (be it with respect to alleged ISIS members from other tribes or from their


“One tribe may force women to marry members of another tribe as a means of resolving a dispute between the two groups” – a practice that is prohibited by Iraq’s Personal Status Law”; UNU-CPR, The Limits of Punishment, May 2018, https://bit.ly/2Zf6nQC, p. 24. According to Maytham al-Saadi, a professor at Missan University, the practice has changed over time: “In the past, fasliyas would be proposed only in cases needing blood money, but in recent decades they’ve been used to end the simplest disputes between tribes”. He referred to this tribal custom as "modern slavery", Channel News Asia, In Iraq, Tribal Traditions Rob Women, Girls of Rights, 18 April 2019, http://po.st/OTINpT. See also Section III.A.8.e ("Forced and Child Marriage").

“Of the ‘solutions’ […] to banish families with one or more members who had joined IS from returning to the community according to the tribal law doctrine of bara’ah (‘disavowal’); UNU-CPR, The Limits of Punishment, May 2018, https://bit.ly/2Zf6nQC, p. 24. “The fasl may also involve matters beyond the mere payment of money, including, for example, a requirement that a party leave their home and move to a location farther away from the home of the victim or other members of his tribe. That may be accompanied by a written guarantee that the perpetrator will not return again to the same city, neighborhood, or village. If he is then seen in the place where he had promised to not appear any longer, the, to use the tribal phrasing, ‘his blood could be shed with impunity’ “; Hamoudi et al., The Resolution of Disputes in State and Tribal Law in the South of Iraq, 30 March 2015, http://bit.ly/2ZfHq5p, p. 239. See also, Center for Naval Analyses, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, http://bit.ly/2NPLmZgf, pp. 12-13, 15. On the announcement of the expulsion decision and its consequences for the affected individual, see: UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, https://www.refworld.org/docid/5a66f84f4.html, pp. 2-3 (and sources included therein). See also below footnote 626.

With the Iraqi security forces already debilitated following the 2003 war, the power vacuum allowed many spaces to be occupied by southern Iraq’s historic tribal entities that have exploited citizens through intimidation, blood money, and revenge attacks, causing ongoing violence in many neighborhoods across Basra. Unresolved tribal disputes in Basra frequently spill into violent clashes, transforming some residential areas into conflict zones. Each time a tribal member is killed, a revenge killing is threatened. Such feuds, accompanied by armed confrontations with heavy weapons, abductions and killings, are reported to remain a common occurrence, particularly, but not exclusively, in the southern governorates, where the situation is reportedly compounded by the return of armed fighters who had fought against ISIS.

Tribal justice has reportedly also gained renewed strength in formerly ISIS-held areas as many tribes are reported to consider the formal justice system ineffective to deal with those considered guilty of atrocities committed by ISIS (be it with respect to alleged ISIS members from other tribes or from their
own tribe).\textsuperscript{667} Acts of retribution are reported to also be frequently effected against families associated with real or perceived ISIS members on account of their family or tribal relations.\textsuperscript{668}

Those who fear being targeted for revenge acts will often refrain from approaching the police for fear of further reprisals,\textsuperscript{669} while law enforcement personnel, who are often themselves members of tribes, are reported to be reluctant to interfere in tribal conflicts.\textsuperscript{670} Blood feuds may give rise to long cycles of retaliatory violence and revenge and can sometimes flare up after being dormant for years.\textsuperscript{671} In April 2018, the Ministry of Justice reportedly announced the establishment of a tribal arbitration committee tasked with the resolution of tribal conflicts. Iraqi observers described the development as further undermining the formal justice system.\textsuperscript{672}

UNHCR considers that individuals involved in blood feuds may, depending on the individual circumstances of the individual case, be in need of international refugee protection on the basis of a well-founded fear of persecution at the hands of non-State actors for reasons of membership of a particular social group or other relevant Convention grounds, combined with a general inability of the State to provide protection from such persecution.\textsuperscript{673} Claims by persons involved in blood feuds may, however, give rise to the need to examine possible exclusion from refugee status.

For civilians targeted by their own or other tribes on account of their perceived support for ISIS, including families associated with real or perceived ISIS members, see Section III.A.1.a and b.

For women and girls, as well as persons of diverse sexual orientations and/or gender identities at risk of “honour”-based violence at the hands of their tribe, see Sections III.A.8.d and III.A.10.
12) Palestinian Refugees

a) Situation in Areas under Control of the Central Government

Palestinian refugees continue to be faced with a sentiment or perception among some segments of the Iraqi population, including among law enforcement agencies, that they received preferential treatment from the former Government of President Saddam Hussein and/or that they are supportive of ISIS, or previously, Al-Qa’eda in Iraq.\textsuperscript{674} The renewed escalation of violence in Iraq between 2014 and 2017 as a result of the advances of ISIS and the corresponding rise of government-affiliated armed groups resulted in a significant deterioration of the security and human rights situation for Palestinians in Iraq, including in Baghdad (where the vast majority of Palestinians reside), Ninewa and Al-Anbar.\textsuperscript{675} Despite relative improvements in the overall security situation following the territorial defeat of ISIS,\textsuperscript{676} UNHCR continues to record targeted attacks against Palestinian refugees mainly in Baghdad based on their nationality and perceived affiliation with ISIS. Recorded attacks include harassment, threats, arbitrary arrest and prolonged detention, torture, abduction, extortion and killing at the hands of both state and non-state actors.\textsuperscript{677} As of March 2019, a total 71 Palestinians are known to UNHCR to be held in

\begin{itemize}
\item 674 Palestinian refugees in Iraq arrived in Iraq during several waves of displacement since 1948. Although they were never formally recognized as refugees by former Iraqi governments, they enjoyed a favourable environment in line with key resolutions of the League of Arab States and the 1965 Protocol for the Treatment of Palestinians in Arab States (“Casablanca Protocol”). The rights of Palestinian refugees were further guaranteed through national legislation. Under the former Government of Saddam Hussein, Palestinians enjoyed a broad range of rights, including the rights to work, health care and education and were provided with government-owned housing in the Baladiyat residence complex in Baghdad, or paid a fixed, subsidized rent in privately-owned dwellings. Following the fall of Saddam Hussein in April 2003, the situation of Palestinian refugees changed dramatically as they became the target of hostility and harassment by segments of the Iraqi population, particularly armed militias, on account of their perceived association with and preferential treatment by the former regime, as well as their perceived support of Sunni militant groups. They were reported to be subjected to targeted attacks, including arbitrary arrest and detention, torture, kidnappings, extra-judicial killings, bombings and mortar attacks in Baladiyat, as well as discrimination, dismissal from employment, denial of education, and forced eviction from government and rented housing. By 2007, thousands of Palestinians had fled Iraq, mainly to Syria and Jordan; Institute for International Law and Human Rights, Iraq’s Minorities and Other Vulnerable Groups, May 2013, http://bit.ly/1Pu4y4x, pp. 119-122; UNHCR, Aide-Mémoire: Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those who Fled the Country, December 2006, www.refworld.org/docid/45b0fc2e2.html; RCC Decree 202 of 2001, which stipulated that Palestinians who had residency in Iraq were to be “treated as Iraqi citizens in rights and duties” with the exception of the right to obtain Iraqi nationality, was abolished under Iraq’s new Residence Law (Law No. 76 of 2017). At the time of writing, it remains unclear if and how the legal status of Palestinian refugees is affected as the Ministry of Interior is yet to issue the necessary instructions to facilitate the execution of the new law. The Secretariat of the Council of Ministers has confirmed that the regulations related to Palestinian refugees in Iraq remain valid and would not affect refugees and asylum-seekers. Furthermore, as outlined above, other laws and decrees continue to safeguard most of the rights of Palestinians; UNHCR information, April 2019. For laws and decrees relating to the legal status of Palestinian refugees in Iraq, see: Palestinian Refugees in Iraq – Applicable Legislation, May 2019, https://www.refworld.org/docid/5cc97cf4e.html.
\item 675 The pre-2003 population of Palestinians countrywide was believed to be more than 34,000. Prior to the evacuation of UN staff from Iraq in August 2003, UNHCR registered 23,000 Palestinians as part of a registration campaign. Following the violence in 2006 and 2007, thousands of Palestinians fled Iraq and, at the end of 2006, the population of Al-Baladiyat had decreased from 8,000 to 4,000. In 2008, an update of the registration of Palestinians was conducted throughout the country by the Permanent Committee for Refugee Affairs of the Ministry of Interior (PC-Mol), with technical support from UNHCR, during which some 10,500 individuals were registered. A 2013 verification exercise resulted in the registration of over 8,400 Palestinians, of whom about 98 per cent live in Baghdad city (noting that locations outside Baghdad could not be visited at the time). The number of Palestinians in Baghdad has further dropped since mid-2014 as a result of the deteriorated security situation and increasing attacks against Palestinians. In April 2016, UNHCR conducted a new verification exercise and, as at 31 March 2019, 8,119 Palestinian refugees were registered with UNHCR. The vast majority of these (6,282 individuals) reside in Baghdad, with smaller numbers in other parts of central and southern Iraq (including 869 in Mosul, who are living in a residential complex that was damaged during the military offensive to retake the city from ISIS) and the KR-I (around 760 individuals, mostly in Erbil Governorate): UNHCR information, April 2019.
\item 676 See Section II.B. (“Security Situation”).
\item 677 In 2017, UNHCR recorded 42 security incidents involving Palestinian refugees (of which 13 took place before 2017, but were only reported in 2017). These incidents include: 31 cases of threats to life, five (attempted) abductions, two robberies, two cases of arbitrary detention (with one detainee tortured), one murder and one disappearance. Between 1 January 2018 and 31 March 2019, UNHCR recorded 44 security incidents (of which seven took place before 2018, but were only reported in 2018), including 39 threats to life and security, two murders, two cases of arbitrary detention and one abduction. It should be noted that most cases are likely to go unreported; UNHCR information, April 2019. See also, Asharq Al-Awsat, Iraq Continues to Deny Palestinian Refugees Right to Haj, 1 September 2016, http://bit.ly/2F0GxU; The Palestinian Information Center, Iraqi Militia Kills Palestinian Refugee near Baghdad, 18 June 2016, https://bit.ly/2HxyJE; The New Arab, Palestinian ‘Kidnapped by Militias’ Found Dead in Iraq, 24 May 2016, http://bit.ly/2msaE67.
\end{itemize}
detention, mostly in Baghdad. The majority of these Palestinians were detained by the ISF, mostly on suspicion of terrorist activities. While some of these detainees have been charged under Article 4(1) of the Anti-Terrorism Law, others reportedly remain in detention without charges. Most of these detainees are kept incommunicado and UNHCR and its partner organizations do not have access to them nor are they able to locate their place of detention. Reports describe the routine use of torture and ill-treatment of persons held for terrorism-related offences during pre-trial detention. Human rights organizations have documented cases of Palestinian refugees who were sentenced on the basis of coerced confessions, including one who was sentenced to death.

Access to fair judicial proceedings and state protection is reported to be a particular challenge for Palestinians, which renders them easy targets for abuse and exploitation by militias and tribes, including for confiscation of property and forced eviction from their homes. Palestinians are often reluctant to report such incidents to the authorities for fear that this would further affect their situation, due to possible links between the perpetrators of the abuse and the authorities, or the real or perceived negative bias of the police against Palestinians.

Palestinian refugees hold ID cards issued by the Permanent Committee for Refugee Affairs of the Ministry of Interior (PC-MoI). On the basis of a registration exercise undertaken in 2008, Palestinian refugees who arrived in Iraq in 1948 (or later, but who were displaced in 1948 from that part of Mandate Palestine which became Israel, and who have been unable to return there) as well as their descendants obtained red ID cards, while those who arrived in 1967 or subsequently, as well as their descendants, received yellow ID cards. These ID cards can be distinguished from those held by Iraqi nationals, making Palestinian refugees easily identifiable, including at checkpoints. These ID cards are often not recognized or respected at security checkpoints, which can result in harassment, threats, physical and verbal abuse, investigation, arrest, and temporary detention at checkpoints. Such restrictions on the freedom of movement affect all aspects of daily life, including access to education and employment, with often severe cumulative effects. Palestinian teenage boys and girls have dropped out of school as a result of their inability to move about freely. Since early 2018, new ID cards have been gradually introduced to replace the yellow and red ID cards. The new ID cards do not distinguish between different categories of Palestinians and are identical to those issued to refugees of other nationalities.

Palestinians living in Mosul (Ninewa Governorate) are particularly affected by movement restrictions, e.g. when seeking to travel to Baghdad for necessary administrative procedures at the PC-MoI office or the Palestinian Embassy (e.g. adding of civil status events such as births or marriages, replacement of lost or damaged ID cards or issuance of passports). UNHCR is also aware that Palestinians in Mosul

---

678 UNHCR information, April 2019.
680 UNHCR information, April 2019.
681 UNHCR has received credible accounts of torture in detention from Palestinian refugees. In 2016, UNHCR received a report of a Palestinian refugee who had disappeared after entering a local council office at the end of May 2016 and who was found dead a few days later at the Forensic Institute in Baghdad with noticeable signs of torture; UNHCR, March 2019. See also Section II.E.1.a ("Human Rights Violations by Iraqi Authorities and Affiliated Forces").
683 UNHCR information, April 2019.
684 UNHCR has learnt of numerous instances in which Palestinians did not approach the police for these reasons. In cases in which they reported security/protection incidents, Palestinians often faced negative consequences or inaction by the police. Lack of access to efficient state protection leaves Palestinian refugees exposed to human rights abuses by both state and non-state actors such as militias or tribes; UNHCR information, March 2019.
685 The PC-MoI is in charge of registration and issuance of ID cards to Palestinians. Registration of Palestinians by PC-MoI started in mid-2008.
686 Such reports have been received from both Baghdad and Mosul; UNHCR information, April 2019.
687 Ibid.
688 Ibid.
689 Ibid.
face difficulties finding employment as PC-MoI cards are not accepted as a legitimate form of documentation by employers there.690

Palestinians in Iraq have also been affected by the Government’s May 2018 decision to suspend the provision of food rations through the PDS for non-Iraqi nationals. Palestinians have also been affected by the Government’s May 2018 decision to suspend the provision of food rations through the PDS for non-Iraqi nationals. As of 19 March 2019, the Government has provided for the resumption of the food rations for Palestinians under certain conditions.691

b) Situation in Areas under Control of the KR-I

Most Palestinians in the KR-I either hold PC-MoI cards and/or a UNHCR refugee certificate. In either case, Palestinian refugees are generally granted access to public services and enjoy freedom of movement across the KR-I, although certain obstacles have been reported as local authorities, including at checkpoints, do not always recognize documentation held by the refugees.692

From within Iraq, Palestinian refugees can travel to the KR-I either by land or air, provided they hold a valid PC-MoI card.

c) Exit from and Readmission to Iraq

To travel outside Iraq, Palestinians need to hold a travel document issued by either the Residence Affairs Directorate (MoI) for those who arrived in 1948, or a Palestinian Passport issued by the Palestinian Embassy for all others. In addition, they are required to obtain approval (exit/re-entry visas, though these terms are not necessarily used in the document) prior to their travel.693 Exit without prior approval is punishable by confiscation of all movable and immovable property.694 The Passports Law of 2015 further stipulates a minimum sentence of three years imprisonment for anyone who entered or left the country through unofficial border points.695 In addition, the Penal Code foresees terms of imprisonment of maximum 15 years for those who falsify official documents or who use falsified documents.696

There is some ambiguity over the rules and practice applicable in the event of re-entry following an extended period (over six months) of stay outside Iraq. According to the PC-MoI, Palestinians should be treated as Iraqi citizens and, thus should not be denied readmission to Iraq, provided they hold valid travel documents and an exit/re-entry approval (even if expired). However, UNHCR received information from both the representative of the Palestinian Embassy in Baghdad and from the Palestinian community that Palestinians who stayed beyond the validity of their travel documents are not in fact allowed to re-enter Iraq. Re-entry following the expiry of their exit/re-entry visa is at the discretion of the concerned Iraqi authorities.697

690 Ibid.

691 Palestinians seeking to reactivate their PDS must submit a written request, fingerprints of all family members, their original permanent residency as well as an attestation letter from the PC-MoI confirming the authenticity of the latter. At the time of writing, UNHCR is not aware of any Palestinians having been able to obtain their food rations; UNHCR information, April 2019.


693 Exit/re-entry visas are issued by the Directorate of Residence Affairs. The validity of these exit and re-entry visas varies. While in most cases the exit visa is valid for three months, in some instances it may be issued for up to one year, depending on the reason for travel; UNHCR information, April 2019.

694 Article 17 of the 1951 Political Refugee Act stipulates that refugees cannot leave Iraq without prior approval from the Ministry of Interior, whilst Article 18 imposes punishment through confiscation by the authorities of all movable and immovable property; The Political Refugee Act (Law No. 51 of 1971), 10 April 1971, www.refworld.org/docid/560a498c4.html.


697 UNHCR information, April 2019.
For (re-)admission to the KR-I from abroad, Palestinians, including those registered with the PC-MoI, must hold a valid travel document / passport as well as a valid entry visa, which must be obtained prior to travelling to the KR-I.698

Under the 1951 Convention, Palestinian refugees falling within the personal scope of Article 1D, who have been excluded under Art. 1D(1) (who are receiving or are eligible to receive protection or assistance from UNRWA) and who are subsequently included under Art. 1D(2) (when that protection or assistance has ceased) are ipso facto entitled to the benefits of the 1951 Convention, provided Articles 1C, 1E or 1F of the 1951 Convention do not apply.699

Asylum claims of Palestinians who do not fall within the scope of Article 1D should be adjudicated under Article 1A(2) of the 1951 Convention. The risk profiles included in this document provide relevant country of origin information and eligibility guidance.

B. Refugee Status under UNHCR’s Broader Mandate Criteria or Regional Instruments, or Eligibility for Complementary Forms of Protection

The 1951 Convention forms the cornerstone of the international refugee protection regime. The criteria for refugee status in the 1951 Convention need to be interpreted in such a manner that individuals or groups of persons who meet these criteria are duly recognized and protected under that instrument. Only when an asylum-seeker is found not to meet the refugee criteria in the 1951 Convention, for example because the feared persecution is found not to be for reason of a Convention ground, or if otherwise the threshold for applying the 1951 Convention definition is not met, should broader international protection criteria as contained in UNHCR’s mandate and regional instruments be examined, including subsidiary protection.700

This section of the Guidelines provides guidance for the determination of eligibility for international protection of Iraqi asylum-seekers who are found not to meet the refugee criteria contained in Article 1A of the 1951 Convention. Individuals who do not come within the criteria set out in the 1951 Convention may nevertheless be in need of international protection. In particular, individuals who flee situations of violence where there is no nexus with a 1951 Convention ground may be found to come within the terms of UNHCR’s mandate, or the criteria set out in regional instruments.701

Given the fluid nature of the situation in formerly ISIS-held areas of Iraq, applications by Iraqis for international protection under UNHCR’s broader mandate criteria or under the regional instruments, or for forms of complementary protection, including subsidiary protection under Article 15 of the 2011 EU Qualification Directive, should each be assessed carefully in light of the evidence presented by the applicant and other current and reliable information about the situation in Iraq.

Ibid.


1) Refugee Status under UNHCR’s Broader Mandate Criteria and Regional Instruments

a) Refugee Status under UNHCR’s Broader Mandate Criteria

UNHCR’s mandate encompasses individuals who meet the refugee criteria under the 1951 Convention and its 1967 Protocol, but has been broadened through successive UN General Assembly and ECOSOC resolutions to a variety of other situations of forced displacement resulting from indiscriminate violence or public disorder. In light of this evolution, UNHCR’s competence to provide international protection to refugees extends to individuals who are outside their country of origin or habitual residence and who are unable or unwilling to return there owing to serious threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order.

In formerly ISIS-held areas, particularly in areas outside urban centres, the conflict between the ISF and affiliated forces on the one hand and ISIS on the other continues despite the end of major military operations in the end of 2017. Although ISIS no longer holds effective control over territory, the government has not established effective government control outside urban areas in Al-Anbar, Diyala, Kirkuk, Ninewa and Salah Al-Din Governorates, where ISIS continues to operate. Indicators to assess the threat to life, physical integrity or freedom resulting from generalized violence in these areas include: (i) the number of civilian casualties as a result of indiscriminate acts of violence, including suicide and car bomb attacks, shelling, IED explosions and ERW (see Section II.B); (ii) the number of security incidents (see Section II.B); and (iii) the number of people who have been forcibly displaced due to conflict (while noting that the number of displaced people who have not been able to return to a given area would be an additional indicator for a continued threat to life, physical integrity or freedom) (see Section II. D)

Such considerations are not, however, limited to the direct impact of the violence. They also encompass the longer-term, more indirect consequences of conflict-related violence that, either alone or on a cumulative basis, give rise to threats to life, physical integrity or freedom. In this respect, relevant elements include the information presented in Sections II.B, II.E and II.F relating to (i) ISIS’ ability to threaten, intimidate, extort, kidnap and kill civilians and restrict their freedom of movement; (ii) the high level of fragmentation of security actors, the prevalence of corruption and the ability of security actors to commit human rights violations regularly with impunity; (iv) the impact of violence and insecurity on the humanitarian situation as manifested by poverty, food insecurity, the destruction of homes, livelihoods and the loss of assets; and (v) constraints on women’s participation in public life.

Against this background, UNHCR considers that individuals who originate from areas where limited military operations against ISIS continue and/or where ISIS continues to operate characterized above, may, depending on the individual circumstances of the case, be in need of international protection. Those who are found not to meet the refugee criteria of the 1951 Convention may be eligible for international protection under UNHCR’s broader mandate on the grounds of serious threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order.

b) Refugee Status under Article I(2) of the 1969 OAU Convention

Iraqis and former habitual residents from Iraq who seek international protection in countries that are States Parties to the 1969 OAU Convention may qualify for refugee status under Article I(2) of that
instrument, on the grounds that they were compelled to leave their place of habitual residence owing to events seriously disturbing public order parts of Iraq, in order to seek refuge outside Iraq. 705

In the context of the 1969 OAU Convention, the phrase “events seriously disturbing public order” encompasses situations of conflict or violence that threaten civilians’ lives, freedom or security, as well as other serious disruptions of the ordre public. 706 UNHCR considers that areas of Iraq, where limited military operations against ISIS continue and/or where ISIS continues to operate should be regarded as areas affected by events seriously disturbing public order. Consequently, UNHCR considers that individuals originating from such areas and who have been found not to meet the criteria of the 1951 Refugee Convention may be in need of international protection under the terms of Article I(2) of the 1969 OAU Convention, on the grounds that they were compelled to leave their place of habitual residence owing to threats to their lives, freedom or security as a result of events seriously disturbing public order.

c) Refugee Status under the Cartagena Declaration

Asylum-seekers from Iraq who seek international protection in any of the countries that have incorporated the Cartagena Declaration on Refugees (“Cartagena Declaration”) into their national legislation may qualify for refugee status on the grounds that their lives, safety or freedom have been threatened by generalized violence, internal conflict, massive violation of human rights or other circumstances that have seriously disturbed public order. 707

Following similar considerations as for UNHCR’s broader mandate criteria and the 1969 OAU Convention (Sections III.B.1.a and b), UNHCR considers that individuals originating from areas of Iraq, where limited military operations against ISIS continue and/or where ISIS enjoys freedom of movement, and who have been found not to meet the criteria of the 1951 Refugee Convention, may be in need of international protection under the terms of the Cartagena Declaration, on the grounds that they have fled because their lives, safety or freedom were threatened by circumstances that have seriously disturbed public order, either in the form of direct or indirect consequences of conflict-related violence, or as a result of serious human rights violations and abuses committed with impunity by armed actors in these areas.

2) Eligibility for Subsidiary Protection under the EU Qualification Directive

Iraqis and former habitual residents of Iraq who seek international protection in Member States of the European Union and who are found not to be refugees under the 1951 Convention may qualify for subsidiary protection under Article 15 of the 2011 Qualification Directive, if there are substantial grounds

---


707 Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984, www.refworld.org/docid/3ae6b36ec.html, Section III.3. Although the Cartagena Declaration is included in a nonbinding regional instrument, the Cartagena refugee definition has attained a particular standing in the region, not least through its incorporation into 15 national laws and State practice. For guidance on the interpretation of the refugee definition in the Cartagena Declaration, see: UNHCR, Guidelines on International Protection No. 12: Claims for Refugee Status Related to Situations of Armed Conflict and Violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees and the Regional Refugee Definitions, 2 December 2016, HCR/GIP/16/12, www.refworld.org/docid/583595ff4.html, paras 61-85.
for believing that they would face a real risk of serious harm in Iraq. In light of the information presented in Section II.C of these Guidelines, applicants may, depending on the individual circumstances of the case, be in need of subsidiary protection under Article 15(a) or Article 15(b) on the grounds of a real risk of the relevant forms of serious harm (death penalty or execution; torture or inhuman or degrading treatment or punishment), either at the hands of the State or its agents, or at the hands of non-state agents.

Equally, in light of the fact that Iraq continues to be affected by a non-international armed conflict and in light of the information presented in Sections II.B, II.C, II.D and II.E of these Considerations, applicants originating from or previously residing in conflict-affected areas may, depending on the individual circumstances of the case, be in need of subsidiary protection under Article 15(c) on the grounds of a serious and individual threat to their life or person by reason of indiscriminate violence.

In the context of the armed conflict in Iraq, factors to be taken into account to assess the threat to the life or person of an applicant by reason of indiscriminate violence in a particular part of the country include the number of civilian casualties, the number of security incidents, as well as the existence of serious violations of international humanitarian law which constitute threats to life or physical integrity. Such considerations are not, however, limited to the direct impact of the violence, but also encompass the consequences of violence that are more long-term and indirect, including the impact of the conflict on the human rights situation and the extent to which the conflict impedes the ability of the State to protect human rights. In the context of the conflict in Iraq, relevant factors in this respect are (i) the continued presence of ISIS in areas outside of urban centres, where effective government control has not been established following the retaking of these areas from ISIS and the latter’s ability to threaten, intimidate, extort, kidnap and kill civilians and restrict their freedom of movement; (ii) the high level of fragmentation of security actors, the prevalence of corruption and the ability of security actors to commit human rights violations with impunity; (iii) the impact of violence and insecurity on the humanitarian situation as manifested by food insecurity, poverty, the destruction of homes, livelihoods and the loss of assets; and (iv) constraints on women’s participation in public life.

These factors, either alone or cumulatively, may be found to give rise to a situation in a particular part of Iraq that is sufficiently serious to engage Article 15(c) without the need for the applicant to demonstrate individual factors or circumstances increasing the risk of harm. Where, after all relevant evidence has been considered, this is found not to be the case in the part of Iraq from which the applicant originates, it falls to be considered whether the applicant’s individual characteristics are such as to reveal specific vulnerabilities which, combined with the nature and the extent of the violence, give rise to a serious and individual threat to the applicant’s life or person.

---

708 Serious harm for the purposes of the Qualification Directive is defined as (a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict. European Union, Directive 2011/95/EU of the European Parliament and of the Council on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (Recast), 13 December 2011, www.refworld.org/docid/4f197df02.html, Articles 2(f), 15.

709 For information on the legal basis, use and implementation of the death penalty by the central government and the KRG, see Section II.E.1 ("Human Rights Situation – State Actors").

710 See Section II.E ("Human Rights Situation").

711 It should be noted that where applicants face a real risk of such treatment for reason of a 1951 Convention ground, they should be accorded refugee status under the Convention (unless they are to be excluded from the benefit of protection under the Refugee Convention under Article 1.F). Only where there is no nexus between the risk of serious harm and one of the Convention grounds should the applicant be accorded subsidiary protection.

712 See Court of Justice of the European Union, Elgafaji v. Staatssecretaris van Justitie, C-465/07, 17 February 2009, www.refworld.org/docid/499aee52.html, where the Court of Justice of the European Union held (at para. 43) that the existence of a serious and individual threat to the life or person of an applicant “can exceptionally be considered to be established where the degree of indiscriminate violence characterising the armed conflict taking place (…) 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.”
C. Considerations Relating to the Application of an Internal Flight or Relocation Alternative (IFA/IRA)

A detailed analytical framework for assessing the availability of an internal flight or relocation alternative (IFA/IRA), also referred to as internal protection alternative,713 is contained in the UNHCR Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees.714

An assessment of the possibility of relocation requires an assessment of the relevance as well as the reasonableness of the proposed IFA/IRA.715 In cases where a well-founded fear of persecution has been established in some localized part of the country of origin, the determination of whether the proposed internal flight or relocation area is an appropriate alternative for the individual concerned requires an assessment over time, taking into account not only the circumstances that gave rise to the risk feared, and that prompted flight from the area of origin, but also whether the proposed area provides a safe and meaningful alternative in the future. The personal circumstances of the individual applicant and the conditions in the area of relocation need to be considered.716

If an IFA/IRA is considered in asylum procedures, a particular area of proposed relocation must be identified and all relevant general and personal circumstances regarding the relevance and reasonableness of the proposed area of relocation for the particular applicant must be established to the extent possible and must duly be taken into account. The applicant must be given an adequate opportunity to respond to the purported relevance and reasonableness of the proposed IFA/IRA.717

The guidance provided in this Section applies to IFA/IRA assessments in the context of determinations of the need for international refugee protection under the 1951 Convention (Section III.A), UNHCR’s broader mandate criteria (Section III.B.1.a), and the Cartagena Declaration (Section III.B.1.c). The guidance provided in this Section also applies to internal protection assessments under Article 8 of the Qualification Directive.718 The consideration of possible internal relocation is not generally relevant to the determination of refugee status under Article I(2) of the OAU Convention (Section III.B.1.b).719


715 In relation to applications for international protection in EU Member States, Article 8 of the 2011 Qualification Directive applies. It includes both a relevance and reasonable test. 2011 Qualification Directive, Article 8.

716 UNHCR, Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative”, 23 July 2003, www.refworld.org/docid/3f2791a44.html, para. 7. In relation to applications for international protection in EU Member States, see also Article 8(2) of the 2011 Qualification Directive, which provides that “Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant.”


719 UNHCR, Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative”, 23 July 2003, www.refworld.org/docid/3f2791a44.html, para. 5. Article I(2) of the 1969 Convention extends the refugee definition to “every person, who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality” (emphasis added). The same considerations apply to individuals coming within the refugee definition as contained in Article I(2) of the Bangkok Principles, which is identical to the refugee definition of the 1969 OAU Convention.
1) *Relevance Analysis*

a) *Areas of Iraq where an IFA/IRA is not available*

UNHCR considers that an IFA/IRA is not available in areas formerly controlled by ISIS or otherwise affected by conflict in light of continued human rights violations and abuses by state and non-state actors, continued ISIS presence and ongoing anti-ISIS military operations in these areas.

UNHCR further considers that an IFA/IRA is not available in the disputed areas due to these areas’ sensitive security, political and demographic dynamics and the risk of further destabilizing the situation through population movements, including in the Districts of Kirkuk, Khanaqin (Diyala Governorate) and Tuz Khurmatu (Salah Al-Din Governorate).

b) *Assessing whether the applicant would be exposed to the original risk of being persecuted in the proposed area of IFA/IRA*

A proposed area of IFA/IRA would not be relevant if the applicant would be exposed to the original risk of being persecuted in that area.

- Where the applicant has a well-founded fear of persecution at the hands of the State or its agents, there is a presumption that consideration of an IFA/IRA is not relevant.
- In cases where the applicant has a well-founded fear of persecution at the hands of ISIS, the relevance of a proposed IFA/IRA must be assessed taking into account the profile of the individual and whether the persecutor (be it ISIS or another armed group) is both able and motivated to pursue the applicant in the proposed area of relocation. In addition, the evidence provided in Section II.E.3 needs to be taken into account regarding the limitations on the ability of the State to provide protection from human rights abuses at the hands of ISIS or other armed groups.
- Where the applicant has a well-founded fear of persecution at the hands of family, tribe, or community as a result of harmful traditional practices, including on account of preserving family “honour” (see in particular risk profiles 5b and c, 9, 10, 11 and 12), there is a presumption that consideration of an IFA/IRA is not relevant in light of the available evidence that such actors are motivated and capable of pursuing the applicant in the proposed area of relocation, including, for example, through tribal, family or other links; the endorsement of such norms and practices by large segments of society and the limitations of the State to provide protection against such abuses (see Section II.E.3).

c) *Assessing whether the applicant would be exposed to new risks of being persecuted in the proposed area of IFA/IRA, or to other forms of serious harm*

In addition to the considerations above relating to the original form of persecution in the applicant’s home area, the decision-maker must also establish that the applicant would not face any new form of persecution in the proposed area of IFA/IRA, nor any other serious harm. As UNHCR has noted in its *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative”*: "a person with an established fear of persecution for a 1951 Convention reason in one part of the country cannot be expected to relocate to another area of serious harm. If the claimant would be exposed to a new risk of serious harm, including a serious risk to life, safety, liberty or health, or one of serious discrimination, an internal flight or relocation alternative does not arise, irrespective of whether or not there is a link to one of the Convention grounds. The assessment of new risks would..."
therefore also need to take into account serious harm generally covered under [broader refugee criteria or] complementary forms of protection.”

The assessment must be based on up-to-date country of origin information, including in relation to the security situation in the proposed area of IFA/IRA. For instance, in relation to persons originating from formerly ISIS-held areas, it would have to be carefully assessed whether they may be at risk of persecution or other serious harm in the proposed area of relocation on account of their perceived affiliation with ISIS, including based on family or tribal affiliation (see Section III.A.1). Furthermore, single, widowed or divorced women without a genuine male support network may also face new risks of serious harm, including trafficking, exploitation and other abuse (see Section III.A.8).

d) Assessing where the proposed area of IFA/IRA is practically, safely and legally accessible

In cases where an area of Iraq has been identified that is not excluded as a relevant IFA/IRA on the basis of considerations described above under a) – c), it would still need to be assessed whether the proposed area of IFA/IRA is practically, safely and legally accessible to the individual. In the context of Iraq, this requirement entails an assessment of the concrete prospects of the individual being:

- **Able to safely reach and be admitted to the proposed area of relocation:** An individual’s ability to pass checkpoints and be admitted to the proposed area of relocation will require the individual to hold valid civil documentation (ID card, nationality certificate or passport). Depending on the individual’s profile, including his/her religious/ethnic background, tribal affiliation, place of origin as well as gender and family composition, there may be additional access requirements such as obtaining a security clearance from concerned security agencies, and having a sponsor/guarantor.

- **Permitted to take up residency in the proposed area of relocation:** Valid civil documentation is required in addition to a confirmation/recommendation letter from the mukhtar and/or the local council, depending on the area. Depending on the individual’s profile, particularly his/her

---

722 ibid., para. 20.
723 For an assessment of the security situation in different parts of the country at the time of writing, see Section II.B (“Security Situation”).
725 On documentation, see also Section II.F (“Humanitarian Situation”).
726 In the face of large-scale displacement of people due to ISIS’ expansion and subsequent anti-ISIS military operations between 2014 and 2017, many local authorities introduced stringent entry and residency restrictions, including, among others, sponsorship requirements and, in some areas, near-complete entry bans for persons fleeing from ISIS-held or conflict areas, particularly Sunni Arabs. At the time of writing, security screenings remain in place for persons from formerly ISIS-held or conflict-affected areas. Access bans have been lifted while sponsorship requirements remain in place for entry to and residency in several governorates for persons from formerly ISIS-held areas. At the time of writing, persons from formerly ISIS-held or conflict-affected areas, particularly Sunni Arabs (including persons who returned to Iraq from a third country) require a sponsor for access to the following governorates:

- **Basrah, Dhi-Qar, Missan, Muthanna and Qadissiyah Governorates:** The sponsor must receive the individual at the governorate entry checkpoint in order to facilitate the entry. In case an individual entered the governorate without being checked, s/he needs to approach the concerned security branch for clearance, accompanied by the sponsor. Inability to secure a sponsor will likely result in the individual being denied access to the governorate, although security actors have a level of discretion to exceptionally grant access, depending on the profile of the person and their reasons for relocation.

- **Dohuk Governorate:** Arabs from formerly ISIS-held or conflict-affected areas and Turkmen from Tal Afar (Nineveh Governorate) require a sponsor in order to enter, unless they obtain a temporary travel authorization from the checkpoint near Hatara village. This authorization is issued for short-term visits for medical or similar reasons. No sponsor is required for entry to Baghdad, Babil, Diyala, Erbil, Kerbala, Kirkuk, Najaf, Sulaymaniya and Wasit Governorates. Sponsorship requirements in order to enter Erbil and Sulaymaniya Governorates via air or at internal land borders have been lifted in early 2019. Information available to UNHCR, April 2019. This information is also available on Refworld at: UNHCR, Iraq: Country of Origin Information on Access and Residency Requirements in Iraq: Ability of Persons Originating from Formerly ISIS-Held or Conflict-Affected Areas to Legally Access and Remain in Proposed Areas of Relocation, 25 April 2019, https://www.refworld.org/docid/5cc2c30d7.html. Updated versions will be published on Refworld.
Depending on the area, persons from formerly ISIS-held or conflict-affected areas require a sponsor and/or a confirmation/recommendation letter from the mukhtar and/or the local council in order to take up legal residency. In addition, security clearance from relevant security agencies is needed in all areas. At the time of writing, UNHCR is aware of the following residency requirements in respect to persons from formerly ISIS-held or conflict-affected areas, particularly Sunni Arabs (including for persons who returned from Iraq from a third country):

- **Baghdad Governorate**: Persons from formerly ISIS-held or conflict-affected areas require two sponsors from the neighbourhood in which they intend to reside as well as a support letter from the local mukhtar.

- **Dohuk Governorate**: Arabs from formerly ISIS-held or conflict-affected areas and Turkmen from Tal Afar (Ninewa Governorate) must regularize their stay by obtaining the approval from the local Asayish, based on which they obtain a residency permit. When approaching the Asayish, the individual must be accompanied by the sponsor who had facilitated his/her entry into Dohuk.

- **Diyała Governorate**: With the exception of Khanaqin District, persons from formerly ISIS-held or conflict-affected areas require a sponsor from the neighbourhood in which they intend to reside as well as a support letter from the local mukhtar. In Khanaqin District, letters from three entities are required (mukhtar’s office, National Security, and Intelligence).

- **Kirkuk city**: Following the re-establishment of central government control on 16 October 2017, sponsorship requirements have been lifted. Persons from formerly ISIS-held or conflict-affected areas require a support letter from the local mukhtar in the neighbourhood in which they intend to reside.

- **Southern Governorates**: Persons from formerly ISIS-held or conflict-affected areas require a local sponsor as well as a support letter from the local mukhtar in order to legally reside in Babel, Basra, Dhi-Qar, Kerbala, Missan, Muthanna, Najef, Qadsisyyah and Wassit Governorates.

In Erbil and Sulaymaniyah Governorates, persons originating from outside the KR-I must approach the local Asayish in the neighbourhood in which they seek to reside in order to obtain a residency card. They do not require a sponsor. Single Arab and Turkmen men, however, require regular employment and must submit a support letter from their employer in order to obtain a one-year, renewable residency card. Those without regular employment receive only a one-month renewable residency card.

All in all, sponsorship requirements are generally not grounded in law nor are they officially announced.

Access and residency requirements are reportedly not always clearly defined and/or implementation can vary or be subject to changes depending mostly on the security situation. Sponsorship requirements are generally not grounded in law nor are they officially announced.

Against this background, UNHCR considers that for Sunni Arabs and Sunni Turkmen from formerly ISIS-held or conflict-affected areas an IFA/IRA is generally not relevant in areas where the authorities maintain access and residency requirements and/or where there is pressure on persons from formerly ISIS-held or conflict-affected areas to return to their areas of origin.

The only exceptions would be for applicants of this profile for whom it can be established that, based on the individual circumstances of their case, they would be able to access and legally and durably remain in the proposed area of relocation.

---

727 Depending on the area, persons from formerly ISIS-held or conflict-affected areas require a sponsor and/or a confirmation/recommendation letter from the mukhtar and/or the local council in order to take up legal residency. In addition, security clearance from relevant security agencies is needed in all areas. At the time of writing, UNHCR is aware of the following residency requirements in respect to persons from formerly ISIS-held or conflict-affected areas, particularly Sunni Arabs (including for persons who returned from Iraq from a third country):

- **Baghdad Governorate**: Persons from formerly ISIS-held or conflict-affected areas require two sponsors from the neighbourhood in which they intend to reside as well as a support letter from the local mukhtar.

- **Dohuk Governorate**: Arabs from formerly ISIS-held or conflict-affected areas and Turkmen from Tal Afar (Ninewa Governorate) must regularize their stay by obtaining the approval from the local Asayish, based on which they obtain a residency permit. When approaching the Asayish, the individual must be accompanied by the sponsor who had facilitated his/her entry into Dohuk.

- **Diyała Governorate**: With the exception of Khanaqin District, persons from formerly ISIS-held or conflict-affected areas require a sponsor from the neighbourhood in which they intend to reside as well as a support letter from the local mukhtar. In Khanaqin District, letters from three entities are required (mukhtar’s office, National Security, and Intelligence).

- **Kirkuk city**: Following the re-establishment of central government control on 16 October 2017, sponsorship requirements have been lifted. Persons from formerly ISIS-held or conflict-affected areas require a support letter from the local mukhtar in the neighbourhood in which they intend to reside.

- **Southern Governorates**: Persons from formerly ISIS-held or conflict-affected areas require a local sponsor as well as a support letter from the local mukhtar in order to legally reside in Babel, Basra, Dhi-Qar, Kerbala, Missan, Muthanna, Najef, Qadsisyyah and Wassit Governorates.

In Erbil and Sulaymaniyah Governorates, persons originating from outside the KR-I must approach the local Asayish in the neighbourhood in which they seek to reside in order to obtain a residency card. They do not require a sponsor. Single Arab and Turkmen men, however, require regular employment and must submit a support letter from their employer in order to obtain a one-year, renewable residency card. Those without regular employment receive only a one-month renewable residency card.

Holders of a one-month residency card face difficulties in finding regular employment due to the short duration of their permits; Information available to UNHCR, April 2019. This information is also available on Refworld at: UNHCR, Iraq: Country of Origin Information on Access and Residency Requirements in Iraq; Ability of Persons Origination from Formerly ISIS-Held or Conflict-Affected Areas to Legally Access and Remain in Proposed Areas of Relocation, 25 April 2019, https://www.refworld.org/docid/5cc2c30d7.html. Updated versions will be published on Refworld.

728 "The proposed area is also not an internal flight or relocation alternative if the conditions there are such that the claimant may be compelled to go back to the original area of persecution, or indeed to another part of the country where persecution or other forms of serious harm may be a possibility”; UNHCR, Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative”, 23 July 2003, www.refworld.org/docid/3f2791a44.html, para. 21.

729 See Section II.D.b (“Forced and Premature Returns”).
2) **Reasonableness Analysis**

a) The Applicant’s Personal Circumstances

Whether an IFA/IRA is “reasonable” must be determined on a case-by-case basis, taking into account the personal circumstances of the applicant, including their age, gender, health, disability, family situation and relationships, as well as their educational and professional background. An individual’s ability to speak and understand the predominant language in the proposed area of relocation (e.g. Kurdish in the KR-I, and Arabic elsewhere) must also be part of the assessment.

--

**Ties to an ethnic and/or religious community and existing tribal and family links in the area of relocation are crucial when assessing the availability of an IFA/IRA, as these generally ensure a certain level of community protection, as well as access to services and employment.**

This is true for cities, but even more so for semi-urban and rural areas, where newcomers without such links may be discriminated against. Even those originating from the area may be perceived as newcomers if they have lost all links with their community. Further, an IFA/IRA to an area with a predominantly different ethnic or religious demography may also not be possible due to latent or overt tensions between groups. This can be particularly the case for Sunnis in predominantly Shi’ite areas, and vice versa. Members of religious or ethnic minority groups should not be expected to relocate to an area with no presence of members of the same community that would allow for a certain level of support.

The particular circumstances of children as well as the legal obligations of States under the Convention on the Rights of the Child – in particular the obligations to ensure that the best interests of the child are a primary consideration in all decision-making affecting children and to give due weight to the views of the child in light of his or her age and maturity – need to be taken into account in assessing the reasonableness of an IFA/IRA involving children. Adjudicators need to give due consideration to the fact that what is considered merely inconvenient for adults may constitute undue hardship for a child. In the case of unaccompanied and separated children from Iraq, the best interests of the child must be a primary consideration in assessing the availability of an IFA/IRA for the child, in accordance with Article 3(1) of the Convention on the Rights of the Child. UNHCR considers that a minimal

---


731 “The majority of IDPs report borrowing money from family, and the share reaches 78 per cent in Sulaymaniyah and 63 per cent in Baghdad. Borrowing money is not the only time IDPs look to their immediate networks for help while in displacement. A plurality of those in Baghdad (43%) and significant majorities of those in Basrah (81%), Sulaymaniyah (75%), and Kirkuk (63%) rely on relatives and friends to access jobs. These findings suggest that the burden of displacement continues to fall primarily on the extended family networks of those displaced” (emphasis added); Georgetown University/IOM, Access to Durable Solutions Among IDPs in Iraq: Three Years in Displacement, 12 February 2019, http://bit.ly/2H7ozZG, p. 32. “Members of a given ethnic or religious group tend to suffer discrimination or persecution in areas where they represent a minority, leading many to seek safety in other neighborhoods or provinces” Freedom House, Freedom in the World 2019 – Iraq, 4 February 2019, www.ecoi.net/en/document/2002613.html. Gaps in state provision of basic services are reported to be filled, to some extent, by the provision of services by non-state actors such as PMF groups. However, “[E]quity of access deteriorates because services are conditional – who and to what extent one gets covered is contingent upon sectarian affiliation, connections, or political activism”; KAS, Alternative Governance – Non-State Armed Groups and the Iraqi Reconstruction Process, Research Paper No. 3, June 2018, http://bit.ly/2X0w4FS, p. 22. Christian IDPs are reported to have received financial and material assistance from the church and faith-based organizations. However, such assistance is reported to be declining among other reasons because the focus has shifted towards rebuilding formerly ISIS-held areas; see e.g. Rudaw, Archbishop of Erbil: Iraq’s Christians Need to Thrive, not just Survive, 13 March 2019, http://bit.ly/2CprDN7; Rudaw, Christian IDPs Sheltering above Erbil Bazaar Threatened with Eviction, 5 March 2019, https://bit.ly/2H9KSyz; International Republican Institute, Social and Political Perspectives of Iraqi IDPs from Ninewa and Their Host Communities – A Focus Group and Key Informant Interview Study in Iraq, April - May 2018, 5 September 2018, http://bit.ly/2UHMcX, p. 3.

732 On minorities’ reported lack of strong political or tribal networks and political and economic marginalization, see Section III.A.5.a (“Members of Religious and Minority Ethnic Groups”).


734 UN General Assembly, **Convention on the Rights of the Child**, 20 November 1989, U.N.T.S. 1577, p. 3, www.refworld.org/docid/3ae8e38f0.html, Article 3(1); CRC, General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, Para. 1), 29 May 2013, CRC/C/GC/14, www.refworld.org/docid/51a84b5e4.html, paras 75-76.
requirement in this regard is the availability of meaningful support to the child by the child’s own (extended) family or tribe in the area of prospective relocation.

UNHCR considers that in the case of persons with specific needs, including persons with disabilities and elderly persons, a proposed area of IFA/IRA would only be reasonable if the applicant has access to a support network that consists of members of their (extended) family or tribe, who are willing and able to provide durable support to meet the person’s identified needs in a sustainable – and where necessary permanent – manner.735

In light of the serious human rights situation for women, as well as social and religious norms that restrict women’s freedom of movement and the generally low employment rates for women,736 UNHCR considers that an IFA/IRA is not reasonable for women who do not or who are perceived not to have male protection through members of their family, including female heads of household.

b) Safety and Security

A proposed area of IFA/IRA would only be reasonable if the applicant is able to live in the proposed area in safety and security, free from danger and risk of injury.737 These conditions must be durable, not illusory or unpredictable.738 In this regard, the volatility and fluidity of the security situation in Iraq must be taken into consideration. Information presented in Sections II.B and II.C of these Guidelines and reliable, up-to-date information about the security situation in the proposed area of relocation would be important elements in assessing the reasonableness of a proposed IFA/IRA.

c) Respect for Human Rights and Economic Survival

For a proposed IFA/IRA to be reasonable, the applicant must be able to exercise his or her basic human rights in the area of relocation, and the applicant must have possibilities for economic survival in dignified conditions.739 In this regard, the assessment of the reasonableness of a proposed IFA/IRA must give particular attention to:

(i) Access to adequate shelter in the proposed area of relocation;
(ii) The availability of basic infrastructure and access to essential services in the proposed area of relocation, such as potable water and sanitation, electricity, health care and education;
(iii) The presence of livelihood opportunities; or in the case of applicants who cannot be expected to provide for their own livelihood (for example female-headed households, elderly applicants or applicants with disabilities), proven and sustainable support to enable access to an adequate standard of living.

In relation to (i) – (iii) above, in the specific context of Iraq the importance of the availability and access to social networks, consisting of the applicant’s family, extended family or tribe, has been widely documented.740 In this regard, the presence of members of the extended family or the same tribe as the applicant in the proposed area of relocation cannot by itself be taken as evidence that the applicant would be able to benefit from meaningful support from such communities; rather, such support would generally require specific pre-existing social relations connecting the applicant to individual members of the family, extended family or tribe in question. Moreover, even where such pre-existing social relations exist, an assessment should be made whether the members of this network are willing and able to provide genuine support to the applicant in practice, against the background of Iraq’s precarious

---

735 See Section II.F (“Humanitarian Situation”).
736 See Section II.F.2 (“Livelihoods”) and III.A.8 (“Women and Girls with Certain Profiles or in Specific Circumstances”).
738 Ibid.
739 Ibid., paras 28-30.
740 See above footnote 731.
humanitarian situation, the low developmental indicators, and the wider economic constraints affecting large segments of the population.

Against this background, UNHCR considers that a proposed IFA/IRA is reasonable only where the individual has access to (i) shelter, (ii) essential services such as sanitation, health care and education; and (iii) livelihood opportunities or proven and sustainable support to enable access to an adequate standard of living. Moreover, UNHCR considers that an IFA/IRA is reasonable only where the individual has access to a support network of members of his or her family, extended family or tribe in the area of prospective relocation, who have been assessed to be willing and able to provide genuine support to the applicant in practice. In light of the difficult economic and humanitarian conditions in many parts of the country, especially in areas hosting large numbers of IDPs or returnees, (extended) family or tribal members who are themselves in a situation of internal displacement, particularly those living in camps or informal settlements, or who are still in the process of re-establishing their lives following return from displacement, would generally not be considered as being able to support the individual.

In relation to Baghdad city, UNHCR considers that the only exception to the requirement of external support are Arab Shi'ite and Arab Sunni single able-bodied men and married couples of working age without children and without identified specific vulnerabilities as described above. Depending on the individual circumstances (see above, “The Applicant’s Personal Circumstances”), such persons may be able to subsist without family and/or tribal support in Baghdad city.

In relation to urban areas of southern Iraq, UNHCR considers that the only exception to the requirement of external support are single able-bodied men and married couples of working age without children and without identified specific vulnerabilities as described above and who are Shi'ite Arabs. Depending on the individual circumstances (see above, “The Applicant’s Personal Circumstances”), such persons may be able to subsist without family and/or tribal support in urban areas of southern Iraq that have the necessary infrastructure and livelihood opportunities to meet the basic necessities of life.

In all cases the applicant must be given an adequate opportunity to respond to the purported reasonableness of proposed IFA/IRA.

### 3) Internal Flight or Relocation Alternative in the KR-I

#### a) The Reasonableness of the KR-I as an IFA/IRA

To assess whether the KR-I provides a reasonable IFA/IRA, it must be considered by decision-makers that there are serious concerns about the limits of the region’s absorption capacity in light of the continued high numbers of displaced populations present in the region (more than 40 per cent of the total 1.7 million IDPs in Iraq and nearly all of the 250,000 Syrian refugees), and against the backdrop

---

741 The wider economic constraints and poverty affecting large segments of the Iraqi population need to be taken into account when assessing the reasonableness of an internal flight alternative, particularly in areas with high numbers of IDPs. Factors to be considered include in particular competition over access to livelihoods, shelter, and basic services. See Section II.F (“Humanitarian Situation”).

742 See Section II.D (“Forced Displacement and Returns”).


744 The KR-I, with an estimated total population of over five million people, continues to host close to 700,000 IDPs and 250,000 Syrian refugees. Some 1.2 million people, including IDPs, refugees, returnees and vulnerable host communities are considered to be in need of humanitarian assistance. Funding constraints mean that of these, fewer than half (500,000) are targeted for humanitarian assistance in 2019. In all three governorates, there are districts with high or very high humanitarian needs, including Suleimaniyah and Sulaymaniyah (Sulaymaniyah Governorate). The severity of needs in Erbil District is assessed to be moderate, however, it hosts the highest number of people in need in all of the KR-I (approximately 321,000 people, including a third of all refugees). The majority of IDPs currently in camps in the KR-I do not intend to return to their areas of origin in the foreseeable future, which may result in further strains on already stretched resources;
of deteriorating socio-economic conditions and increasing poverty in the KR-I, and limited (and decreasing) humanitarian assistance, particularly outside of displacement camps. The presence of large numbers of displaced populations mainly in and around urban areas is reported to have stretched local services and infrastructure, increased job competition, and contributed to a significant decline in living standards across the KR-I.


According to the 2019 Humanitarian Needs Overview, the governors in the KR-I have some of the highest rates of unemployed IDPs seeking work among the IDP-hosting governors not directly affected by conflict (Dohuk Governorate: 41 per cent of out-of-camp IDPs and 29 per cent of in-camp IDPs, respectively; Erbil Governorate: 24 and 38 per cent; and Sulaymiany Governorate: 10 and 21 per cent); OCHA, Iraq: Humanitarian Needs Overview 2019 (November 2018), 16 December 2018, https://bit.ly/2C2ZSwd, p. 51. According to Hoshang Muhammad, Director-General of the KRG Ministry of Interior’s Joint Crisis Coordination Centre, “[f]ew IDPs and refugees earn incomes. While some IDPs are current or retired civil servants receiving monthly compensation from the Iraqi government, 65 percent of IDPs and refugees depend on assistance from KRG, UN agencies, and NGOs”; KRG, Kurdistan Region still Hosts about 1.5 Million IDPs and Refugees, 14 February 2019, http://bit.ly/2UIRcQa. Many IDPs are reported to have lost hope of finding employment (nearly half of the male IDPs in camps

UNHCR / May, 2019
them to cover their basic costs of living, including medical care, education fees and housing. Arab IDPs are also reported to face difficulties in finding jobs due to negative perceptions and language barriers. IDPs living outside of camps may find it difficult to compete with those in camps where living costs are lower, allowing them to accept lower wages. The public sector, which plays a dominant role in the KR-I economy, is generally not open for non-Kurds from outside the region. IDPs are also reported to face difficulties in finding jobs due to negative perceptions and language barriers. In light of limited livelihood opportunities, IDP households have been increasingly reliant on negative coping strategies in order to meet their basic needs, including incurring debts, child marriage and forced marriage, sending children to work and reducing food intake.

Inability to access employment/livelihoods often translates into difficulties to accessing food, health services and shelter. As rent levels in the KR-I are relatively high and increasing, many IDPs and over one-third outside of camps); UNFPA/IOM, Demographic Survey: Kurdistan Region of Iraq, 13 September 2018, https://bit.ly/2NXvPeV, pp. 42-43. See also, IOM, Integrated Location Assessment III, 2 January 2019, https://bit.ly/2SJpReW, p. 35. IDPs in the KR-I are more likely to be among the lower-income households: over 80 per cent of households settled in camps and nearly 45 per cent of those living outside camps have a monthly income of less than 500,000 IQD per month (compared to 35 per cent among the non-camp KR-I); UNFPA/IOM, Demographic Survey: Kurdistan Region of Iraq, 13 September 2018, https://bit.ly/2NXvPeV, p. 44. "The impact of the economic crisis is severely felt in camps because of a lack of jobs outside the camp both for men and women reduced household incomes and peoples’ purchasing ability. All the female participants who are/were running shops or beauty salons said their income has declined significantly since the start of the economic crisis"; LSE, Displacement and Women’s Empowerment: Voices of Displaced Women in the Kurdistan Region of Iraq, 4 March 2018, https://bit.ly/2ZMrveq, p. 17.

For example, "(…) presidents of universities, deans of colleges, and heads of departments and even school managers in Hawler (Erbil) and Duhok provinces are either employed by, or are members of KDP; and in Sulaimani and Halabja provinces they are mostly hired by PUK"; Open Democracy, Corruption Corrodes Kurdish Education, 15 October 2018, https://bit.ly/2Uaps4c. "About one fifth of interviewees perceive wasta [a term referring to connections, favoritism, nepotism] as a key hindrance to obtaining livelihood opportunities, especially in the camps"; LSE, Displacement and Women’s Empowerment: Voices of Displaced Women in the Kurdistan Region of Iraq, 4 March 2018, https://bit.ly/2ZMrveq, p. 17. According to reports, finding work in the informal sector often requires connections: "Informal job searching is by far the main recruitment mechanism. Employers generally turn first to their friends and families and advertising job openings is not a common practice, therefore making the recruitment system non-transparent"; DRC/UNDP/UNHCR, A Study of the Opportunities in Labour Markets for IDPs and Refugees in KRI Construction Labour and Service-Sector Labour Market Systems, December 2014, https://bit.ly/2UprErq, p. 7. In the KR-I, non-Kurds cannot work in the public sector unless it is for the institutions of the central government. Some IDPs were able to transfer their employment to these bodies and received their salaries from the central government. Others managed to find employment because of their Arabic language skills in the largely Kurdish-speaking KR-I; Georgetown University/IOM, Access to Durable Solutions Among IDPs in Iraq: Three Years in Displacement, 12 February 2019, https://bit.ly/2H7ozQO, p. 25. See also footnote 158 concerning instructions given to central government employees to return to their areas of origin to resume their employment.

For example, "(…) presidents of universities, deans of colleges, and heads of departments and even school managers in Hawler (Erbil) and Duhok provinces are either employed by, or are members of KDP; and in Sulaimani and Halabja provinces they are mostly hired by PUK"; Open Democracy, Corruption Corrodes Kurdish Education, 15 October 2018, https://bit.ly/2Uaps4c. "About one fifth of interviewees perceive wasta [a term referring to connections, favoritism, nepotism] as a key hindrance to obtaining livelihood opportunities, especially in the camps"; LSE, Displacement and Women’s Empowerment: Voices of Displaced Women in the Kurdistan Region of Iraq, 4 March 2018, https://bit.ly/2ZMrveq, p. 17. According to reports, finding work in the informal sector often requires connections: "Informal job searching is by far the main recruitment mechanism. Employers generally turn first to their friends and families and advertising job openings is not a common practice, therefore making the recruitment system non-transparent"; DRC/UNDP/UNHCR, A Study of the Opportunities in Labour Markets for IDPs and Refugees in KRI Construction Labour and Service-Sector Labour Market Systems, December 2014, https://bit.ly/2UprErq, p. 7. See also footnotes 276 and 731.

- Soaring levels of household debt were particularly high among non-displaced, returnee, and out-of-camp IDP households and among households in Erbil, Anbar, Kirkuk, Ninewa, Dahuk, and Salah al-Din Governorates." And further: “Conflict-affected households in Erbil reported an average of more than 3,000,000 IQD of debt (roughly 2,500 USD) [the highest among all governorates]” (emphasis added); REACH, Multi-Cluster Needs Assessment (MCNA) – In-Camp IDPs, September 2018, https://bit.ly/2CWipsP, pp. 5, 35. See also, OCHA, HRP 2019, 26 February 2019, https://bit.ly/2TybMbV, p. 4.

In "In areas of displacement – especially the northern governorates which host a large proportion of IDPs – rent prices are increasing, negatively affecting IDPs, host communities and returnees"; OCHA, HRP 2019, 26 February 2019, https://bit.ly/2TybMbV, p. 8. "Housing prices increased by 20 per cent in 2018 in the Kurdistan Region, while rent has gone up by 15, with even higher prices predicted"; Rudaw, Housing, Rent Prices Increasing in Kurdistan Region, 8 January 2019, https://bit.ly/2Vz1VwH. "Increased competition for housing outside the camps drove up costs and led to overcrowding and resorting to substandard accommodations"; Migration Policy Centre, Profile Iraq, undated, accessed 30 April 2019, https://bit.ly/2IRIptR. See also Section II.F.1 ("Shelter").
cannot afford the rising costs and are at risk of eviction and/or are forced to relocate to IDP camps. However, admission to camps is subject to space limitations and therefore regulated by waiting lists. Moreover, while Arabic schools, established in response to the influx of mostly Arabic-speaking IDPs into the KR-I since 2014, are set to close according to a decision by the Iraqi Ministry of Education, According to information available to UNHCR, school closures are expected for the academic year 2019/2020. UNHCR received information that along with the decision to close Arabic schools in the KR-I, 1,800 IDP teachers have been formally requested by the central Government to return to their areas of origin. Transfers of Arabic-speaking IDP children to Kurdish schools are generally not possible, particularly for older children due to differences in language (Kurdish vs. Arabic) and curriculum.

At the time of writing, around 3,000 individuals were waiting for admission to an IDP camp in Erbil (2,200 persons) and Dohuk Governorates (780 individuals). In Dohuk Governorate, the highest demand is for admission to Yezidi-populated camps; UNHCR information, April 2019. Moreover, “[In many camps, tents are worn-out, water and sanitation services need to be increased, access to health and education services needs to be improved and livelihood programmes need to be expanded”; OCHA, HRP 2019, 26 February 2019, https://bit.ly/2TyIbMb, p. 34. In Dohuk Governorate, in 95 out of 115 assessed informal IDP sites school-aged children faced challenges to accessing formal education, mostly due to long distance to reach school and limited economic resources and physical/logistical restraints. In Sulaymaniyah Governorate, IDPs in 17 out of 18 sites reported challenges to accessing formal education for the same reasons; REACH, Informal Site Assessment Sulaymaniyah Governorate (August 2018), 31 August 2018, https://bit.ly/2NWekZb; Ibid, Informal Site Assessment Sulaymaniyah Governorate (August 2018), 31 August 2018, https://bit.ly/2tS765S. See also, IOM/CCCM Cluster/REACH, Assessment of Informal IDP Sites in Iraq (June 2017), 30 June 2017, https://bit.ly/2S0H5m9. See Section II.F.1 (“Shelter”).

In Dohuk Governorate, in 95 out of 115 assessed informal IDP sites school-aged children faced challenges to accessing formal education, mostly due to long distance to reach school and limited economic resources and physical/logistical restraints. In Sulaymaniyah Governorate, IDPs in 17 out of 18 sites reported challenges to accessing formal education for the same reasons; REACH, Informal Site Assessment Sulaymaniyah Governorate (August 2018), 31 August 2018, https://bit.ly/2NWekZb. According to a 2018 assessment of IDPs in camps in Sulaymaniyah Governorate, 75 per cent of IDP children aged 6 to 11 received formal education, while the figure decreased to 59 per cent for children aged 12 to 17. In Dohuk Governorate, the rates stood at 83 and 69 per cent, and in Erbil Governorate at 78 and 54 per cent, respectively. The most commonly cited reason for non-attendance was the “disinterest of children”; REACH, Comparative Multi-Cluster Assessment of IDPs Living in Camps – Assessment Report Round IX, April 2018, https://bit.ly/2NpeA9S, p. 29.

“Children affected by conflict continue to have limited access to education, particularly those still living in displacement – in and out of camps as well as in the areas of return. The greatest education needs continue to be in Nineawa, Anbar, Salah al Din, Kirkuk, Diyala, Sulaymaniyah, Erbil and Dahuk” (emphasis added); OCHA, Iraq: Humanitarian Needs Overview 2019 (November 2018), 16 December 2018, https://bit.ly/2C1ZSWd, p. 48. In Sulaymaniyah, “many IDP schools have only one or two teachers who receive a salary from the government; other teachers are supported directly by IDP families through the collection of monthly economic ‘incentives,’ which has financial and protection implications for IDPs. In 12 out-of-camp schools, IDP parents also pay the rent for the school building because it is not a government-owned facility. Such circumstances are one of the consequences of protracted displacement, as host communities try to contend with unexpected population increases”; OCHA, Iraq; “Internally Displaced Persons Must Be Presented with Options Beyond Life in a Camp” – Humanitarian Coordinator, 4 March 2019, https://bit.ly/2tOnqTw. “MRG’s sources indicate that many Christians and Yezidis have been quitting even temporary schools due to a different education environment, whereas IDPs from Sinjar have reported difficulties in adapting to the KRI curriculum, as schools in Sinjar pre-ISIS used to follow the Arabic curriculum of the GoI”; MRG, Alternative Report to the Committee on the Elimination of Racial Discrimination (CERD) – Review of the Periodic Report of Iraq, http://bit.ly/2VKsoYo, para. 29.


UNHCR information, April 2019.


UNHCR information, April 2019.
Against this background, UNHCR considers that an IFA/IRA is generally not reasonable in the KR-I. The only exceptions would be for applicants for whom it can be established that, based on the individual circumstances of their case, they would have access to:

(i) Adequate shelter in the proposed area of relocation in the KR-I, noting that IDP camps or informal settlements would not qualify as “adequate shelter”;
(ii) Access to essential services in the proposed area of relocation in the KR-I, such as potable water and sanitation, electricity, health care and education; and
(iii) Livelihood opportunities; or in the case of applicants who cannot be expected to provide for their own livelihood (for example female-headed households, elderly applicants or applicants with disabilities), proven and sustainable support to enable access to an adequate standard of living.

b) Conclusion on the Availability of an IFA/IRA in the KR-I

UNHCR considers that given the current humanitarian situation in the KR-I, an IFA/IRA is generally not available.

D. Exclusion Considerations

In light of the serious human rights abuses and violations of IHL reported during Iraq’s long history of conflicts and repression, exclusion considerations under Article 1F of the 1951 Convention may arise in individual claims by asylum-seekers from Iraq. Exclusion considerations will be triggered if there are elements in the applicant’s claim that suggest s/he may have been associated with or involved in the commission of criminal acts that fall within the scope of Article 1F. Given the potentially serious consequences of exclusion from international refugee protection, exclusion clauses need to be interpreted restrictively and applied with caution. A full assessment of the circumstances of the individual case is required in all cases.766

Potential exclusion due to involvement in the commission of war crimes in situations of both international and non-international armed conflicts, genocide, crimes against humanity, and serious non-political crimes are of particular relevance in the context of Iraq. Under certain circumstances, exclusion may need to be considered in relation to acts contrary to the purposes and principles of the United Nations. Acts reportedly committed by the parties to the armed conflicts in Iraq include, *inter alia*, abductions and enforced disappearances; torture and other cruel, inhuman and
degrading treatment; murder; extrajudicial and summary executions; rape, sexual slavery and other forms of sexual violence; trafficking in persons; forced religious conversions; forced and underage recruitment; indiscriminate attacks on civilians; forced displacement; and looting and the deliberate destruction of homes, infrastructure and cultural heritage.

For exclusion to be justified, individual responsibility must be established in relation to a crime within the scope of Article 1F. Such responsibility flows from a person having committed a crime or participated in its commission in a manner that gives rise to criminal liability, for example through ordering, instigating, aiding and abetting, or by contributing to the commission of a crime by a group of persons acting with a common purpose. For persons in positions of authority within a military or civilian hierarchy, individual responsibility may also arise on the basis of command/superior responsibility. Defences to criminal responsibility, if any, as well as considerations related to proportionality apply. Evidence about practices of forced recruitment, including in particular of children, needs to be taken into consideration in this regard.

Participation in armed conflict is not, as such, a ground for exclusion. Similarly, mere membership in a group or organization is not a sufficient basis to exclude. A full assessment of the circumstances pertaining to each individual case is required to determine whether the individual concerned was personally involved in excludable acts, or participated in the commission of such acts in a manner that gives rise to individual criminal responsibility under international law.\(^{774}\)

In the context of Iraq, careful consideration needs to be given in particular to the following profiles:\(^{775}\)

(i) (Former) members of ISIS (since 2013);
(ii) (Former) members of predecessor groups of ISIS, including the former Islamic State in Iraq (ISI) and the former Al-Qa’eda in Iraq (AQI) (until 2013);
(iii) (Former) members of the ISF, the security/intelligence apparatus and affiliated forces (since 2003);
(iv) (Former) members of the KRG armed forces and the security/intelligence apparatus (since 2003);
(v) (Former) members of other non-state armed groups (since 2003);
(vi) (Former) members of groups and networks engaged in organized crime (since 2003).
(vii) Former members of the Iraqi military, paramilitary, police and security/intelligence services, as well as high-ranking government officials (1979-2003);
(viii) Former members of armed groups opposing the former regime (1979-2003).

**IV. Position on Forced Returns**

In light of widespread destruction and damage to homes, basic infrastructure and agricultural lands, limited access to livelihoods and basic services, the contamination of homes and lands with ERW, ongoing community tensions, including reprisal acts against civilians perceived to be supporting ISIS, as well as localized insecurity, UNHCR urges States to refrain from forcibly returning persons who originate from areas previously controlled by ISIS or areas with a continued ISIS presence to their areas of origin. UNHCR also advises against the forcible return of these persons to other parts of Iraq if there is a risk that they may not be able to access to and/or reside in these areas, or that they will otherwise end up in a situation where they have no choice but to return to their area of origin. This

\(^{774}\) In some cases, individual responsibility for excludable acts may be presumed if membership and participation in the activities of a particularly violent group is voluntary. Detailed guidance on the interpretation and application of Article 1F of the 1951 Convention can be found in UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, HCR/GIP/03/05, 4 September 2003, www.refworld.org/docid/3f5857684.html; and Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees, 4 September 2003, www.refworld.org/docid/3f5857d24.html.

\(^{775}\) This list reflects the predominant actors active in Iraq at given times and is not to be considered exhaustive.
guidance pertains to individuals who have been found not to be in need of international refugee protection.
International Protection Considerations with Regard to People Fleeing the Republic of Iraq

May 2019
UNHCR, the UN Refugee Agency
P.O. Box 2500
1211 Geneva 2
Switzerland