

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	518
Land:	Irak
Kilde:	Udlændingesservice.
Titel:	Security and Human Rights in South/Central Iraq. Report from Danish Immigration Service's fact-finding mission to Amman, Jordan and Baghdad, Iraq. 25 February to 9 March and 6 to 16 April 2010.
Udgivet:	11. september 2010.
Optaget på baggrundsmaterialet:	14. september 2010.

5/2010

ENG

DANISH IMMIGRATION SERVICE



Security and Human Rights in South/Central Iraq

Report from Danish Immigration Service's fact-finding mission to Amman, Jordan and Baghdad, Iraq

25 February to 9 March and 6 to 16 April 2010

Copenhagen, September 2010

Danish Immigration Service
Ryesgade 53
2100 Copenhagen Ø
Phone: 00 45 35 36 66 00
Web: www.newtodenmark.dk
E-mail: us@us.dk

Overview of fact finding reports published in 2008, 2009 and 2010

Protection of victims of trafficking in **Nigeria**, Report from Danish Immigration Service's fact-finding mission to Lagos, Benin City and Abuja, Nigeria, 9 – 26 September 2007

2008: 1

Protection of victims of trafficking in **Ghana**, Report from Danish Immigration Service's fact-finding mission to Accra, Ghana. February 25 to March 6 2008

2008: 2

Recruitment of IT specialists from **India**, An investigation of the market, experiences of Danish companies, the attitude of the Indian authorities towards overseas recruitment along with the practices of other countries in this field. Report from the fact finding mission to New Delhi and Bangalore, India 4th to 14th May 2008

2008: 3

Report of Joint British-Danish Fact-Finding Mission to Lagos and Abuja, **Nigeria**. 9 - 27 September 2007 and 5 - 12 January 2008

2008: 4

Cooperation with the National Agency for the Prohibition of Traffic in Persons and other related matters (NAPTIP). Report from Danish Immigration Service's fact-finding mission to Abuja, **Nigeria**. 14 to 24 February 2009

2009: 1

Security and Human Rights Issues in Kurdistan Region of **Iraq (KRI)**, and South/Central Iraq (S/C Iraq), Report from the Danish Immigration Service's (DIS), the Danish Refugee Council's (DRC) and Landinfo's joint fact finding mission to Erbil and Sulaymaniyah, KRI; and Amman, Jordan, 6 to 23 March 2009

2009: 2

Honour Crimes against Men in Kurdistan Region of **Iraq (KRI)** and the Availability of Protection, Report from Danish Immigration Service's fact-finding mission to Erbil, Sulemaniyah and Dahuk, KRI, 6 to 20 January 2010

2010: 1

Entry Procedures and Residence in Kurdistan Region of **Iraq (KRI)** for Iraqi Nationals, Report from Danish Immigration Service's fact-finding mission to Erbil, Sulemaniyah, Dahuk, KRI and Amman, Jordan, 6 to 20 January and 25 February to 15 March 2010

2010: 2

Human rights issues concerning **Kurds in Syria**, Report of a joint fact finding mission by the Danish Immigration Service (DIS) and ACCORD/Austrian Red Cross to Damascus, Syria, Beirut, Lebanon, and Erbil and Dohuk, Kurdistan Region of Iraq (KRI), 21 January to 8 February 2010

2010: 3

Allegations against the National Agency for the Prohibition of Traffic in Persons (NAPTIP) and warnings against return to **Nigeria**, Report from Danish Immigration Service's fact-finding mission to Abuja, Nigeria, 9 to 17 June 2010

2010: 4

Security and Human Rights in **South/Central Iraq**, Report from Danish Immigration Service's fact-finding mission to Amman, Jordan and Baghdad, Iraq, 25 February to 9 March and 6 to 16 April 2010

2010: 5

Contents

Introduction and Disclaimer.....	3
1. Security, human rights and indiscriminate violence in South/Central Iraq	5
1.1. Baghdad.....	10
1.2. Disputed areas, Ninewa (Mosul), Diyala (Khanaqin) and Tameen (Kirkuk)	11
Disputed areas	11
Ninewa (Mosul)	12
Diyala (Khanaqin).....	13
Kirkuk	13
1.3. Armed groups, insurgent groups and criminal gangs.....	14
1.4. Security and humanitarian concerns.....	15
1.5. Security and returns.....	17
2. Security and human rights for ethnic and religious communities.....	21
2.1. Non-Arab ethnic communities: Kurds (incl. Feyli Kurds), Turkmen, Assyrians, Chaldeans, Shabaks	23
2.2. Palestinians.....	23
2.3. Religious communities: Christians, Sabeen-Mandean, Yazidis, Jews	24
3. Security and human rights for other groups.....	25
3.1. Professional groups	26
3.1.1. Judges and lawyers.....	26
3.1.2. Journalists.....	28
3.1.3 Government officials.....	28
3.2. Persons cooperating with US forces, international organisations or foreign companies	28
3.3. Former Baathists	29
3.4. Forced recruitment, including recruitment of children	30
4. Availability of protection from authorities against non-state actors.....	33
4.1. Persons threatened by militias.....	33
4.2. Persons involved in private disputes.....	33
4.3. Women at risk of honour crimes.....	34

5. Protection and tribal network.....	35
6. Civil society organisations and protection	37
7. The judiciary and law enforcement.....	38
7.1. The judiciary	39
7.2. Law enforcement.....	42
7.3. Access to fair trial	44
7.3.1. Persons suspected of terrorism or insurgent activities	46
7.3.2. False accusations.....	46
8. Internal Flight Alternative in S/C Iraq	48
Individuals and organisations consulted	49
Abbreviations	50
Annex 1: Map of Iraq.....	52

Introduction and Disclaimer

The Danish Immigration Service (DIS), Documentation and Research Division has undertaken two fact-finding missions concerning South/Central (S/C) Iraq and Iraq's disputed areas.¹ The missions took place in Amman, Jordan from February 25 to March 9, 2010 and in Kurdistan Region of Iraq (KRI) and Baghdad, Iraq from April 6 to April 16, 2010. All information for the report at hand was gathered in Amman and Baghdad while a stay in KRI was chiefly for logistical and planning purposes concerning the trip to Baghdad. The first part of the mission which took place in Amman was carried out with participation of Country of Origin Information Service (COIS), United Kingdom (UK) Border Agency for the purpose of training on how to conduct fact-finding missions.

The aim of the mission was to gather updated information on the general security and the human rights situation in S/C Iraq as well as in disputed areas, including the situation concerning ethnic and religious minorities, as well as information concerning availability of protection from authorities and tribes. In addition, the delegation also gathered information on the judiciary and law enforcement as well as Internal Flight Alternative (IFA) in Iraq.

In Jordan and Iraq, the delegation consulted representatives of international organisations including United Nations (UN) agencies and International Organization for Migration (IOM), International Non-Governmental Organisations (INGOs) and Non-Governmental Organisations (NGOs). Additionally, the delegation consulted two sources that requested to be cited as 'a source in Baghdad' and 'a reliable source [in] Iraq'. A list of all interlocutors is included at the end of this report. All interlocutors have been referred to as requested by them.

All interlocutors consulted were informed that the delegation's mission-report would be a public document. All interlocutors were also informed that they would have their statements forwarded to them for corrections, comments and approval. The interlocutors accepted to have their final statements included into the report at hand.

It should be noted that in a few cases the delegation (i.e. the authors of this report) found it necessary to carefully adjust or clarify phrases in some of the approved notes by adding minor supplementary explanations. These small adjustments have been marked with a closed bracket [...].

The delegation received extensive support from the Danish Embassy in Baghdad during its preparations and the visit in the city. The Danish Embassy provided the delegation with logistical and practical support and organized the delegation's meetings in Baghdad.

The delegation to Amman and Baghdad comprised Jens Weise Olesen, Chief Adviser (Head of Delegation) and Vanessa Worsøe Ostfeld, Regional Adviser, both Documentation and Research Division, DIS. Stewart Wheatley, COIS, UK Border Agency, UK Home Office participated in the mission to Amman as a trainee and the report at hand is the sole responsibility of the DIS.

Finally, publication of the report at hand was delayed as the delegation awaited approval of statements from an individual source – 'a reliable source [in] Iraq' – with central contributions to the report.

¹ Iraq's disputed areas comprise parts of the Governorates of Tameem, Ninewa, Salah Al-Din and Diyala.

Lastly, it should be noted that the report does not contain information other than that which was gathered up until mid-April 2010.

The report is available on DIS's website: www.newtodenmark.dk

1. Security, human rights and indiscriminate violence in South/Central Iraq

Francine Pickup, Head, Inter-Agency Information and Analysis Unit (IAU), Strategic Planning Advisor, Office of the Deputy Special Representative of the Secretary-General and Resident and Humanitarian Coordinator (ODSRSG RC/HC), Amman stated that despite a downward trend in the overall number of security incidents in Iraq from August 2007 to December 2009, the proportion of civilian casualties is shown to have increased steadily, with figures for December 2009 showing over 70% of all casualties classified as civilian.

A new information tool developed by IAU, providing a detailed breakdown of attacks and casualties throughout Iraq, both by Governorate and category of attack, will be available shortly via their website: www.iauiraq.org.

The UN Office for the Coordination of Humanitarian Affairs (OCHA) priorities have refocused more on the development context and capacity building in light of the improved overall security situation of the last twelve months. Concerning the latest security-related trends, potential tribal aspects of violence have not been explored as yet. Any kind of analysis of tribal or ethnic violence is difficult to assess when it comes to determining which groups are specifically at risk.

Reporting limitations make it difficult to determine if violence could be considered indiscriminate or not. It was added that compiling analyses with reference to ethnic or religious indicators is complex as government and some organisations and agencies are against it. Violence is also linked to economic circumstances rather than political which is often overlooked as the primary focus is political violence and not the violence caused by criminals and gangs.

With regard to current security trends, Fyras Mawazani, Executive Director, NGO Coordination Committee for Iraq (NCCI), Amman, stated that although there has been a decrease in the number of incidents since the beginning of 2007, the proportion of civilian casualties is on the increase with both targeted and indiscriminate attacks occurring. NCCI confirmed the statistics on casualties provided to the delegation by Francine Pickup, IAU, ODSRSG RC/HC, Amman. Fyras Mawazani, NCCI, Amman, added that earlier lots of attacks were military and involving insurgent groups, and these incidents have dropped considerably during the last couple of years.

As foreign troops are leaving Iraq, the number of attacks on these decreases and thus the number of casualties among these troops drops. However, even though insurgents target foreign and Iraqi troops and government institutions, including ministries it is very often civilians who become victims of such attacks.

A source in Baghdad stated that in the last six months the situation Iraq is finding itself in clearly one of internal conflict where protection of the civilian population does not exist.

The source agreed with Francine Pickup, IAU, ODSRSG RC/HC, Amman that the security situation in Iraq for ordinary citizens has not improved and that there is still a lack of protection.

A reliable source [in] Iraq stated that even though the political side of the source would like to see an improvement in the overall situation in Iraq an improvement in the security and human rights situation in Iraq is very limited. It was added that the current security environment is fragile and unpredictable and one in which security deteriorates rapidly. There is no real improvement in

security in Iraq. While the number of attacks and security incidents may have dropped, this is no indication of a safer environment.

The current security environment impacts on how the source can operate, adding that escorts which are mandatory for movement are not always available. A movement of two kilometres in the city of Baghdad could take a week to organize and access to grass roots is not easy. According to information from sources in Baghdad, Basra, Kirkuk, Mosul and Erbil, direct access to what is happening on the ground is limited and one is always faced with lengthy procedures in order to carry out activities. For example, a visit to a prison would take months to prepare. It is right to conclude that only “the tip of the iceberg” is probably known to the reliable source when it comes to obtaining information on human rights violations in Iraq.

It was stated that generally, it is difficult to come to a firm conclusion as to who is most at risk in S/C Iraq. It was further explained that generally, information is supplied by NGOs, civil society lawyers and academics and that to a certain degree, the source follows up on allegations regarding human rights violations with the Government of Iraq (GoI) Ministry of Interior. It was explained that it [the source] has no mandate to investigate allegations that are made, however that it gathers and compares information regarding human rights and draws attention to human rights violations. It was added that within the context of planning and predicting of the next 5-10 years in Iraq, human rights unfortunately tend to be of a lesser priority.

The building of a National Human Rights Commission represents an important component in the nation-building of Iraq and underlined that giving the Iraqis ownership of this process is crucial. However, political divisions along ethnic, sectarian and religious lines are making it very difficult to establish a fully independent human rights commission. The process of building a human rights commission is only just beginning and already there are major issues due to these divisions. These problems are already evident within existing Iraqi national commissions.

Concerning human rights, there are no real improvements in Iraq. Detention and prison conditions, deprivation of the rights of women, inequality and protection of civilians is as bad as ever. It was considered that recommendations and conclusions in United Nations Assistance Mission for Iraq (UNAMI) latest human rights report covering the 1st half of 2009 probably will be reiterated in UNAMI's forthcoming human rights report.²

Individuals can be targeted for their professional background, due to their ethnicity or religion or other reasons. The environment of chaos and a lack of effective state authorities are behind this current situation. However, to speak of or define systematic targeting of a certain group is difficult. It would be easy to interpret incidents that occur, including targeted killings, in this light, however they must be understood in the context in which they happen and the lack of state authority. Having said this, there are incidents that definitely are tainted by the appearance of systematic targeted killings.

² UNAMI's human rights report covering the 2nd half of 2009, the period 1 July - 31 December 2009, is now available at http://www.uniraq.org/documents/UNAMI_Human_Rights_Report16_EN.pdf. The report was released on 8 July 2010.

Mass violence causes people to move. Reference was made to the Christians from Mosul that have moved in masses from Mosul and where many return as the situation calms. This sort of movement is still occurring. Additionally, people are still deciding to leave Iraq and few would return because of the security situation. Those Iraqis who do return to Iraq are those who are desperate and have no other solutions after having tried to make it outside Iraq.

Concerning the security situation, a reliable source [in] Iraq stated that since 7 March till mid April 2010, the number of incidents has been rising steadily as well as the number of victims affected. Prior to this, there were a couple of months of relative calm. The development illustrates that going through a period of calm cannot be an indicator of a bettering of the security situation in Iraq.

Reference was made to a national staff to the UN who received a threat on her car window two weeks ago stating allegations of her being a traitor, causing her redeployment to Erbil. Even UN staff are still terrorized and the psychological terror against individuals is one many live with daily. Due to the fact that UN in order to carry out its activities is dependent on the support of United States (US) forces, UN staff are considered part of the coalition and thereby occupiers of Iraq. Being employed by the UN involves a security risk to the employee that is to be taken seriously.

Relatively speaking, the security situation is much better than it was in 2005 and 2006. One could speak of an Iraq moving from a very bad situation to a bad situation security-wise.

An UN source [in Baghdad] informed that Iraq has made significant progress in dealing with the insurgency and improving its security since the peak of violence in 2006 and 2007. The violence witnessed in Iraq has been in essence political and further improvement of security will depend largely on internal and to some extent, external political factors.

Assuming that major ethnic/religious groups and political parties would constructively approach the next stages after the March 2010 parliamentary elections, Iraq is expected to continue to experience gradual stabilization. It will be important to closely monitor Iraq's overall political progress in conjunction with actions by Armed Opposition Groups (AOGs). While some of the groups will continue their efforts to influence political developments through violence it is possible that many AOGs will incrementally move towards a less ideological, more opportunistic and/or criminal enterprise approach.

The UN in general will remain a high-value target for some of the AOGs. However, with the drawdown and withdrawal of the US forces and increased reliance by the UN on Iraqi Security Forces and diversification of UN activities and presences, it is possible that security and safety for UN staff would generally improve. This in turn could increase the UN's ability to deliver its mandates. Geographical differences will continue to be observed as most of the Sunni AOGs are concentrated in Northern, North Central, Western, Baghdad and the upper South Central areas.

The security situation in the Iraq Kurdistan Region (KRI) will likely remain permissive for UN operations but may be periodically influenced by political dynamics in the region and tensions over the Disputed Internal Boundaries (DIBs).

A reliable source [in] Iraq stated that generally, law enforcement and military forces in Iraq are unable to control the situation and protect the people from security incidents that may occur. There are areas that even law enforcement authorities and military forces are unable to go, for example areas of Mosul city as well as along disputed areas. Baghdad also has areas that authorities will not

go into. In such areas there may be a presence of Al Qaeda Iraq (AQI) or insurgent groups that in fact have control and are harassing and targeting the local population. The authorities remain completely incapable of addressing such issues. It was added that UNAMI Security Section Iraq (SSI) would be able to provide more information on this.

An international NGO in Amman stated that the organisation has a reading of the security challenges, as well as the challenges facing minorities in S/C Iraq. It was added that it is present in 12 governorates in Iraq, including the governorates of KRI, but due to limited access, does not have a full picture.

Concerning security related issues, an international NGO in Amman explained that it relies on different sources with regard to the situation in S/C Iraq. Information is provided through monitoring media as well as through UNDSS (United Nations Department for Safety and Security) and UNAMI SSI monitoring reports, information from deployed staff, local NGOs, local staff, INGOs and authorities, including local government agencies.

It is difficult to provide a detailed analysis of the security situation but provided an overview of the trends of the past year or so. As mentioned, the international NGO relies on a variety of sources, adding that different sources do have different indicators and frameworks in compiling their information and thus have varying information on security.

The number of security incidents has decreased since the surge in 2007. An international NGO in Amman described this surge as a turning point, and for the international NGO, freedom of movement for internationals/foreigners has improved in certain locations, although many actors consider it still necessary to move with armed protection. However, insurgents and/or armed groups are still present in S/C Iraq, despite the fact that the number of incidents involving these groups has decreased.

In 2008, there were high hopes for improvement in security and opinions have been split among international NGOs about the security situation in S/C Iraq. South Iraq was considered more secure than the rest of Iraq, largely due to the increased homogeneity of the area. However, in the second half of 2009, this part of Iraq has experienced deterioration with regard to security. A sharp increase in crimes during second half of 2009 contributes to this trend and there has also been a sharp increase in robberies and kidnappings for pure financial gain. This development is largely linked to high unemployment, lack of income and the general very poor level of services available to Iraqis.

Tribal issues also contribute to violence in parts of Iraq. However, while 'tribal issues' is a somewhat unchanging aspect in Iraqi society, the number of crimes due to economic hardship has increased. This increase is not prompted by tribal conflicts, but rather due to economic hardship. Crimes committed for financial gain are more widespread now, an example being kidnappings of children of wealthy persons. It also occurs that criminals pose as security forces or police in uniform. This leads to further mistrust towards the authorities as basically people are not able to distinguish between real police and criminals.

It was considered that while UN claims to be back in Iraq, this is no indicator of an improved security situation in general. UN presence is heavily guarded and movement by UN is done always with the escort of multinational forces and anyway subject to restrictions, leaving few areas where UN actually can move around.

During the latest months, South Iraq has witnessed an increase in attacks against US forces and Iraqi security forces, occurring in connection with operations aimed at targeting insurgent elements. Operations consequently led to retaliation attacks from insurgent groups which have been much stronger than before.

However, information concerning these incidents is hard to obtain as the primary source would be the armed forces. The international NGO in Amman is obtaining information via secondary sources provided by local sources, while only the major incidents are reported in UN security reports.

In order to have a stable and positive development in Iraq, there has to be a stable and capacitated government. However, the South is still fragile and in need of strong capacitated authorities. This is the case for most of Iraq. There are strong differences concerning whether or not Iraq should be centralized or decentralized, and the discrepancies that exist affect the local political dynamics making these unstable. Therefore it will take some time before one will witness a stable political environment. The local elections of January 2009 were hailed as being very positive, however in fact it took until April 2009 to get local governing bodies in place. The 2009 elections illustrated that it is difficult to establish a clear political consensus.

Many are quite quick to claim that Iraq is a rich country with lots of resources (mainly oil) at hand. However, few point to the fact that Iraq does not have the necessary capacity to spend its riches. In its way of spending, Iraq is very far from delivering basic services to the population, and this is mainly due to lack of capacity and due to rampant corruption.

Another issue is that areas in S/C Iraq which suffered massive displacement are currently lacking human capital. Mostly throughout central Iraq, especially Baghdad skilled persons fled, while in the South this was less the case as there was much less fighting in the South. Reference was made to the medical profession which is in crisis, as there is a serious lack of qualified staff. In general, state institutions are still suffering in Baghdad due to lack of human resources as many professionals have fled the country.

Central Iraq experienced the first massive brain drain after the fall of the regime in 2003, while the second big wave of skilled persons fleeing came about in 2006. Due to the lack of skilled persons, many students for instance have become teachers even before they graduated.

Security in Iraq in general, is also dependent on the regional dynamics. For example a situation where Iran is clashing with Gulf countries has an impact of Iraq. Alternately, if Iran is negotiating with countries in the region, the situation in Iraq might improve.

Kent Paulusson, Senior Mine Action Advisor, United Nations Development Programme - Iraq (UNDP - Iraq), Amman explained that it is the UNDSS that determines the UN security level in Iraq. This level is presently at Phase 4 all over Iraq, including KRI. Currently the central parts of Iraq are more unstable than southern Iraq, however it was added that areas north of Basra could also be quite stable, e.g. in Nassiriya.

There appears to be an increasing separation between religion and politics in Iraq, and this means a diminishing of sectarian violence. However, it is impossible to say which way the situation evolves for Iraq. Some improvement in the security situation appeared in 2008. In the spring of 2009, there was a steady increase in the number of incidents however the situation is nowhere near the volatile security situation of 2006-2007.

Nicola Graviano, Programme Manager and Liana Paris, IDP³ Monitoring Project Officer, IOM - Iraq, Amman informed that internal displacement due to conflicts in Iraq does not occur to the same extent as before, although it is still taking place in some cases.

Hakan Salo, Regional Security Advisor, IOM - Iraq, Amman commented that the current situation was “a little bit better” than it had been in the last two or three years. It was added that the statistical downward trend in attacks and casualties “does not prove anything” and that it is the civilian population that is suffering most. A significant factor is the volatile nature of attacks, which mean that the security situation could intensify very quickly from a period of relative calm. However, it was added, security incidents often come in waves.

Nicola Graviano and Liana Paris, IOM - Iraq, Amman stated that IOM is unable to provide any analytical assessment on the links between the security situation and displacements levels within Iraq, although commented that most internal displacement occurred during the period 2006 and 2007, and that displacement has since subsided.

The fact that some areas are more receptive for return does not necessarily mean that they are completely secure for everybody: individual circumstances are different for every migrant or internally displaced person (IDP) even in the same area.

Hakan Salo, IOM - Iraq, Amman stated that to some degree people have stopped receiving “bullets on their doorsteps” or threats from sectarian violence. The number of security incidents has come down from a height of around 200 incidents per month, to less than 100 currently. The UN agency IAU would be able to provide further statistical information on this subject.

However, it was added that the types of risks have perhaps taken on a different shape and the security incidents that occur currently include indirect fire, vehicle bombs and suicide attacks.

The situation is still volatile, and indiscriminate violence does still occur and that the main aim of these attacks is to kill as many people as possible. Attacks can take place at mosques and market places, targeting as many as possible. Tensions are still high and fear widespread.

Nicola Graviano and Liana Paris, IOM – Iraq, Amman informed that IOM does not have any information on who had orchestrated these attacks.

1.1. Baghdad

Kent Paulusson, UNDP - Iraq, Amman explained that in Baghdad, the Iraqi military and security forces are currently taking over some responsibilities from US forces and the professionalism of these forces is of concern. For example, there have been recent incidents of bombings where it is likely that forces at checkpoints have been bribed by terrorists wishing to pass. It appears as if insurgents are able to influence forces.

Concerning the security situation in Baghdad, an international NGO in Amman stated that it has just a small representation in Baghdad.

³ Internally Displaced Person

The second half of 2008 saw some improvement in Baghdad which however, has been short-term and the situation has since deteriorated. As of today, impunity is prevalent in Baghdad and other parts of Iraq. Returns to Baghdad were encouraged during the short period of improvement and returns do still take place. Returns that are taking place are however happening along sectarian lines. Persons returning are doing so to mostly homogenous areas and therefore not actually returning to their place of origin.

Crime is also a big issue in Baghdad as well as the rest of Iraq, and the feeling of impunity that exists in Iraq is adding to the problem. Law enforcement is “close to zero”, and there is a general atmosphere of impunity, according to an international NGO in Amman, and this is confirmed by its beneficiaries.

Hakan Salo, IOM - Iraq, Amman informed that the hotspots for indiscriminate violence in Iraq included Baghdad, Diyala, Kirkuk and Mosul. Additionally, finding valid information on the situation is problematic due to travel restrictions for security reasons imposed on independent observers. Diyala is one of the most difficult areas to get around, even if there are no incidents, there are lots of tensions and fear of insecurity.

1.2. Disputed areas, Ninewa (Mosul), Diyala (Khanaqin) and Tameen (Kirkuk)

Disputed areas

Concerning the situation of minorities, Nicola Graviano and Liana Paris, IOM - Iraq, Amman explained that Christians were fleeing to the North “as we speak”. The Kurd-Arab fault line along the disputed boundaries leads to a tense environment and minorities find themselves caught up in the situation. Among those fleeing are Christians but also Turkmen as well as Yazidi families. In many areas minority groups are being utilised at the time of elections in attempts to change the power and voting dynamics of an area. In Kirkuk people finding themselves in a minority position are fleeing to more homogenous areas.

Along disputed boundary areas where there are minority groups, there continue to be small flows of persons being displaced and who feel they are unable to return to their area of origin. The majority of displacement however, has happened from Baghdad and Diyala. Returns are occurring, but they are localized and it is very hard to make generalizations regarding any trends concerning the movement of return. However, “we can say that the bulk of IOM-assessed return has occurred to Baghdad, Diyala, Anbar, and Kirkuk governorates.”

A reliable source [in] Iraq informed that in disputed areas, Kurdistan Regional Government (KRG) forces are de-facto the controlling authorities and not the GoI forces. Officially, this should not be the case, however on the ground this is the reality largely due to KRG forces superiority with regard to organisation and effectiveness.

Concerning disputed areas, an international NGO in Amman stated that most of the areas, including those in Ninewa, are being controlled by the KRG forces, while Kirkuk is an exceptional case. While Iraqi security forces are in place in disputed areas, the control is de-facto in the hands of the

KRG forces. Recently joint checkpoints of both ISF and KRG forces have been established in some areas, overseen by the Multi-National Forces Iraq forces (MNF-I).⁴

In fact security in the disputed areas in actuality is better compared to other areas of Iraq. The unresolved status of the disputed areas is a great source of tension, however until a solution is found, a fragile security will probably remain.

A reliable source [in] Iraq stated that slowly areas are being more homogenous. Many minorities from S/C Iraq go to Bashekan, Ninewa in the North.

Ninewa (Mosul)

A reliable source [in] Iraq stated that the current situation in Iraq is volatile and persons are still being displaced. There are reports of incidents involving kidnappings, murders and harassment against groups and persons. There is movement e.g. from Mosul city to enclaves within the disputed areas where KRG are able to provide security. Many persons are under such circumstances compelled to take on a Kurdish identity or express loyalty to the local authorities in order to firstly, obtain protection, and secondly, obtain access to services that may be available in the area.

In Ninewa, there are efforts towards stabilizing the area in which the US is playing a supportive role. KRG involvement in the areas that are disputed result in those areas being more secure. It should be considered however, that the KRG involvement is based on its determination to get those areas under official KRG control and therefore leads to tension in the areas.

Mosul is probably the worst place when considering security conditions, but also minorities within disputed areas may be in a tough situation. However, disputed areas themselves are relatively safe compared to many other areas in the vicinity of the disputed areas.

In Mosul, GoI forces officially control security and that KRG Peshmerga does not interfere in the city. Generally, KRG Peshmerga are far better organized and reliable and as a result more effective than GoI forces in addressing security.

As for Mosul city, the Head of Police is replaced quite frequently, and each time a new head takes office, all files are removed thereby allowing an atmosphere of complete impunity. The situation is particularly acute in Mosul with regards to security. The disputed areas are in actuality much safer for minorities due to KRG control. Comparing to the situation in Mosul in 2008 where several attacks on Christians took place, there has in effect been no change since. There may be periods of calm for a short while during which security restrictions have been set in place. However, once such restrictions are lifted, the situation turns volatile once again. There is no foreseeable change to this situation in the near future.

An example of the violence that still occurs, involving civilian victims, Fyras Mawazani, NCCI, Amman referred to the recent violence against Christians in Mosul. OCHA reported on 28 February 2010 that “between 20 and 27 February 2010, some 683 Christian families (4,098 people) became displaced from Mosul city to Ninewa governorate; most of the displacement occurred between 24

⁴ U.S. Forces-Iraq (USF-I) formally replaced Multi-National Force-Iraq (MNF-I) on January 1, 2010.

and 27 February. This follows increased attacks by unidentified armed groups, which have left at least 12 individuals dead.”⁵

Nicola Graviano and Liana Paris, IOM - Iraq, Amman stated that IOM is not aware of who could be behind the recent targeting of Christians in Mosul. Essentially, nobody has taken responsibility and nobody knows who was behind it. Displacement incidents from Mosul continue, and political issues play a role in this being the situation.

Diyala (Khanaqin)

Regarding security in Diyala, an international NGO in Amman stated that the governorate is comparable to Baghdad as it also is a somewhat mixed governorate of Shia and Sunni Arabs and Kurds. Additionally in Diyala, there are some of the same militias and armed groups operating as in Baghdad. The second half of 2008 also witnessed an improvement in security and thereby resulting in some return to the governorate. However, this development was not sustained and the recent political process has not improved security in Diyala. The economic factors contribute to heightening insecurity, including decreasing oil prices that led to a drop in economic support from GoI.

Regarding the recent deterioration of the security situation in Diyala, the international NGO in Amman informed that this is also due to an increase in the presence of armed groups in the governorate. Furthermore, the level of sectarian discourse has increased in Diyala. An example of this trend is that Sunnis increasingly are feeling marginalized and fear being subject to arbitrary arrest, all the while Shia are claiming that they simply are applying the law. Security challenges present in Diyala are comparable to those in Baghdad.

Kirkuk

A reliable source [in] Iraq stated that Kirkuk, with its unique status, is a completely different matter. The situation is fragile and Iraqi Security Forces (ISF) and US forces have a strong presence in the area. AQIs and insurgent groups' presence contribute to making the situation particularly volatile, and there are reports that AQI is using children as suicide bombers or combatants in Kirkuk.

Concerning disputed areas, an international NGO in Amman stated there is no decision on when the status of Kirkuk will be determined.

Due to the fact that Kirkuk is so contested, it is very difficult for persons originating from there to transfer their Public Distribution System (PDS) card⁶ as it entails changing official demographics of the areas. This is not contained to Kirkuk, but is in actuality happening all along the disputed boundary areas.

⁵ OCHA, *Iraq, Displacement in Mosul, Situation Report No. 1*, 28 February 2010.

⁶ Iraq's state food rationing system is known as the Public Distribution System (PDS). Monthly PDS parcels are supposed to contain rice (3kg per person); sugar (2kg per person); cooking oil (1.25kg or one litre per person); flour (9kg per person); milk for adults (250g per person); tea (200g per person); beans (250g per person); children's milk (1.8kg per child); soap (250g per person); detergents (500g per person); and tomato paste (500g per person). (IRIN, *IRAQ: Iraqis welcome WFP role in state food aid system*, January 6, 2010.)

1.3. Armed groups, insurgent groups and criminal gangs

Concerning different armed groups that operate in Iraq, United Nations High Commissioner for Refugees - Iraq (UNHCR - Iraq), Baghdad stated that the situation is fluid, and while there are some 'official' militias that are known, and each political party has its own militia, underneath this there are a number of "invisible" militias that one does not know about. Many would say that one worries about the militias one does not know about.

There are reports of armed groups dressing in government military uniforms. This has led to restrictions on the making and selling of uniforms.

A reliable source [in] Iraq explained that it is not possible to generalize with regards to the intent of attacks and motives that lay behind armed groups' activities. The result of attacks and incidents is indiscriminate loss of life however it is difficult to state that overall attacks are terrorists aiming at killing as many as possible. The use of the term terrorism has been used and misused to a great extent in Iraq and continuation of this often leads to overlooking the complexity of the situation, including the intent of perpetrators. Additionally, the law is deficient in its use and handling of terrorism in e.g. criminal proceedings.

The anti-terrorist law in the hands of the government is subject to abuse, and when the government wishes to target an individual it serves as a convenient tool. For example, political persons may be arrested under the auspices of the anti-terrorist law and as it is carried out by the Ministry of Interior, i.e. without a warrant, access to basic rights and fair trial is not likely.

There are Sunni and Shia groups as well as Baathist groups, all claiming to be resistance groups carrying out their insurgent activities. These groups also target professionals who according to them are disruptive from an ideological point of view. These professionals could be judges, lawyers and in some cases journalists or even persons that do not go in line with these groups' policies. It was added that journalists are mostly targeted by the authorities with the aim of shutting them up.

David Helmey, Operations Officer and Rania Guindy, International Caseworker, Overseas Processing Entity, IOM - Baghdad, Baghdad stated that the biggest threat to security in Iraq is currently emanating from AQI, and there are different opinions as to how many there are.

AQI is working with the Islamic State of Iraq (ISI), except when it comes to Diyala governorate where the two groups are rivals as ISI have sided with the Sahwas.

Additionally, armed opposition groups (AOGs) remain very active and there are a range of different groups, including offshoots of the Mehdi Army. The Mehdi Army itself is an undisciplined, loosely organized group that is also involved in demonstrations. The group was described as not as ideologically-based as AQI. The Mehdi Army is known for carrying out shootings and for abductions for financial gain. The Mehdi Army controls Sadr City and it has official offices in this district of Baghdad. There are over 1 million inhabitants in Sadr City.

There is a fine line between criminal gangs and the newly-established ideologically-based groups.

There is an area in North-western Baghdad characterized by slum-like conditions which could likely be an AQI base. AQI also has a presence in Mosul and Abu Ghraib – one of the most dangerous areas in Iraq, and the group is likely to be present in Kirkuk and Ramadi as well. It was added that there are signs that AQI is back in Diyala as well.

The latest security incidents that have taken place in early April [2010] have been a bit surprising taking into consideration the recent patterns and therefore have been hard to read. However, generally Iraq is still in a state of chaos and this is reflected in the security situation. Everyone in Iraq is a target of the AOGs who want to weaken the government. Indiscriminate violence is still very high. Tensions are high and the AOGs are trying to show their strength. It was added that there are AOGs that are aligned with different politicians.

According to an international NGO in Amman, it is hard to speculate on who make up the insurgent groups in S/C Iraq, although it is commonly known that some are believed to have links to neighbouring countries.

Small and medium-sized groups are organizing themselves in criminal gangs. Concerning the incidents that are reported of children, judges, scholars, doctors, journalists and others being targeted for kidnappings, the perpetrators of such acts may well be linked to these sorts of criminal gangs rather than political groups. Some of these criminal gangs or persons within the gangs enjoy some sort of protection that may be tribally linked (see section on Protection by tribal network).

Concerning Sahwas, i.e. Sons of Iraq or Awakening Councils, Sylvia A. Fletcher, Governance Team Leader and Mohamed El Ghannam, Senior Programme Advisor, Rule of Law & Judicial Reform, UNDP - Iraq, Amman stated that they are not widespread and only exist in Sunni areas in the two governorates of Anbar and Diyala. The Sahwas are protecting people from terrorist groups and Sahwas have also been targeted by insurgent and armed groups. It was added that the Sahwas do not provide protection against ordinary criminal activities.

A UN source [in Baghdad] stated that although there have been several mass casualty attacks in the lead-up to the parliamentary elections [March 2010], AQI and other Sunni AOGs have lost much of their capacity to carry out frequent and high-impact operations. The threat posed by the Shia AOGs has been sharply reduced, mainly due to a unilateral ceasefire and early participation in the political process. However, they still retain significant capabilities and, in some cases, outside support. Shia AOGs mainly operate in Baghdad, South Central and Southern Iraq.

1.4. Security and humanitarian concerns

Francine Pickup, IAU, ODSRSG RC/HC, Amman explained that from a humanitarian perspective, there are still needs and OCHAs Humanitarian Action Plan identifies the main humanitarian concerns to OCHA. Food insecurity is low, largely due to the Iraqi PDS system. There are, however, major gaps in social services, and these are almost completely broken down in many places. IDPs and refugees remain vulnerable, however many in this category are quite affluent in comparison to local populations.

Francine Pickup, IAU, ODSRSG RC/HC, Amman, noted that analysis of IDPs and refugees against local host populations does not draw out any strong indicators that they are necessarily more in need of humanitarian assistance, however this varies from place to place and IDPs living in camps are the most vulnerable. It is necessary to target assistance according to need and not status.

It was further added that there is no correlation between the security situation and returns which she considered as strange. The rate of returns is not expected to rise significantly while the security situation remains unstable, particularly due to the socioeconomic situation which is characterized by lack of services and job opportunities.

Other humanitarian factors facing Iraq are a lack of investment and capacity within the state infrastructure to improve service provision. People often think of Iraq as a rich country, however in actuality this is not the case. A significant majority of Iraq's budget goes to operational expenditures, such as payment of government salaries and the PDS. Very little is channelled into investment of services. A primary expenditure is the PDS system, costing between five and six billion USD yearly. Reforming the PDS system is a UN as well as a GoI priority. As an oil-dependent economy Iraq is vulnerable to falling oil prices. Additionally, the oil industry in Iraq is not creating many jobs and the private sector in general is very weak. It is expected that government social services will deteriorate in the coming years unless oil prices increase.

On the issue of unemployment, Francine Pickup, IAU, ODSRSG RC/HC, Amman, stated that the unemployment rate for Iraq is approximately 15% which is not particularly high. IAU added that IOM would have its own data regarding unemployment rates among IDPs. However it is important to consider that many are not adequately employed and much employment is informal and part-time and underemployment is an issue. The government is the largest employer and employees have job security for life.

However, finding employment in the public sector is difficult for young people as older persons occupy a large proportion of jobs in the public sector. Private sector employment is limited and that employment in the private sector is often more insecure and lower paid. Job seekers often lack the skills required. It was added that often the only public job opportunities for women would be teachers, medical doctors.

Economic activity among women up to secondary school education is restricted due to the lack of sectors which are considered socially acceptable to women, and low education status. Anecdotal evidence suggests that women's freedom of movement, education and participation in public life is more difficult than it once was, but there is a lack data for comparison on this issue.

Concerning return of asylum seekers Fyras Mawazani, NCCI, Amman, stated that the NGO is against the return of rejected asylum seekers to Iraq because security and livelihood is fragile throughout the country. The unemployment rate in Iraq is 18 % according to UN figures however, NCCI, Amman considered the unemployment figures provided by the UN to be too low and only reflecting the official unemployment rates. NCCI, Amman added that employment in Iraq is not secure unless you are employed by the Government authorities.

Regarding access to schooling, education facilities are in a desperate state as there is a lack of teachers. Many teachers have been targeted by insurgents and most have fled the country. Almost all of the new teachers have only recently graduated and they are not well qualified. At the same time it has been very difficult to establish a new curriculum for Iraq.

Concerning housing Fyras Mawazani, NCCI, Amman, explained that many returnees find it difficult to return home as their houses have been left in bad conditions. The government has established a Housing Commission in order to return houses to returnees. However, the commission is marred by corruption. It was added that many refugees sold their houses before leaving Iraq and they may not have a house to return to.

1.5. Security and returns

Looking at the level of violence, a source in Baghdad considered it to be problematic that persons were forced to return to Iraq. Relatively speaking, the number of civilian casualties has increased steadily and one cannot speak any longer of an improvement in security for Iraqis.

Nicola Graviano and Liana Paris, IOM - Iraq, Amman explained that IOM has field monitoring teams in Iraq which provide information on displacement and returns; this includes ethnic and religious data. Data collected by IOM is separate and independent from that gathered by UNHCR.

Iraqis returning from European countries through the IOM Assisted Voluntary Return and Reintegration (AVRR) programme are asked why they left and why they return, and responses differ from area to area. Patterns indicate that security situation is a factor[and] lack of economic opportunities is another major reason to leave Iraq. IOM does not promote returns from abroad to Iraq but gives the possibility to return to those migrants who wish to do so voluntarily. IOM does not influence the decision to return, which is eventually taken by migrants themselves, taking into account personal situation and family priorities.

Nicola Graviano and Liana Paris, IOM - Iraq, Amman, informed that their main focus is the needs of returnees and IDPs and not on human rights and security. Many Iraqis that are displaced, feel they are unable to return, and are finding themselves living under difficult circumstances as all IDPs do everywhere in the world.

The majority of returning IDPs return to their place of origin, so Kurds go to KRI, however in some cases, they may choose to return to other areas to take care of family matters. It was added that there are major disparities in return patterns and some return to areas perceived to be safe while others may not be able to do so due to lack of economic means.

In considering IDP movements from KRI to the rest of the country, this is occurring on an ongoing basis with assistance provided through the [Bureau of Displacement and Migration] (BDM) and the [Ministry of Displacement and Migration] (MoDM). 'Pull factors' for return to Central and Southern Iraq include improved security and the MoDM returnee grant. 'Push factors' include the relatively high living costs in the KRI which had adversely affected IDPs. Some IDPs are completely dependent on the food rations they receive through the PDS system.

According to IOM monitoring, 76% of persons displaced to Basra and assessed by IOM say that they want to stay in the area and integrate. This is often because they feel safe there and may have historical, family, or economic ties to the area.

Roughly 80% of the returns from Europe are to KRI. Approximately 15-17% of migrants are returning to Baghdad while 3-5% are returning to Basra. It was added that most cases of refugees' resettlement come from Baghdad area.

It is IOM's experience that Iraqis returning from Europe do so to their place of origin. Return of IDPs in KRG to the rest of Iraq is also an ongoing process, and the BDM and UNCHR as well as IOM is involved in assisting Iraqis wishing to return to areas of origin. When asked why IDPs are leaving KRG, Nicola Graviano and Liana Paris, IOM - Iraq, Amman explained that a high cost of living and high unemployment could also be push factors. It was added that there are no reports of IDPs being pushed out of KRI by the KRG authorities.

Returnees who took part in AVRR, have returned mainly to their place of origin, however Nicola Graviano and Liana Paris, IOM – Iraq, Amman stated that IOM is not always able to provide any further analysis on whether such returnee groups have been become displaced again. Although IOM aims to contact returnees after between three to six months of their return to assess their situation, sometimes returnees do not want to be monitored by IOM or returnees have changed their contact details.

With regard to return of IDPs, according to Nicola Graviano and Liana Paris, IOM - Iraq, Amman when they return to their place of origin, they will stay in one place, but need the support of the local community to reintegrate.

IOM had received “limited and anecdotal reports” of returnees being targeted, often this would be individuals or families. IOM did not have any information on why such targeting had occurred or who the perpetrators were.

Nicola Graviano and Liana Paris, IOM - Iraq, Amman said that they have no specific accounts of IDP returnees experiencing problems when travelling back to their home area and that movement for IDPs was no different than for ordinary civilians. However, it was added that security in Iraq remains unpredictable and fragile and varies from place to place.

When asked if returnees are particularly targeted, an international NGO in Amman stated that returnees are affected by the general situation in S/C Iraq. It is hard to verify if these persons are at risk of being especially targeted, however the international NGO has heard of returnees from Europe and Canada being considered well-off and therefore perhaps prone to attacks from criminal gangs. However, there are no confirmed reports of this being the case. It is hard to obtain qualified reports concerning this matter. Furthermore, every governorate, even district, has its own local dynamics that affect how persons fare upon returning to S/C Iraq.

Additionally, in the case of S/C Iraq, many returnees are coming back from Syria and Iran and they are often without many funds. Another factor of a more psychological nature is that these returnees initially fled during Saddam Hussein’s regime for political reasons, and upon return, they are perceived as martyrs in some sense, and criminals may be more apprehensive with regard to targeting these persons. Finally, the number of returnees in the South is not that high, so it is hard to say whether not these persons are targeted by criminals or not. It is difficult to conclude [whether] returnees are targeted or not on the basis of such a small number.

Some refugees are returning to Iraq because they don’t have the resources to stay abroad, e.g. from Jordan or Syria. Some think that they can return to the places that are now largely homogenous, while others return to obtain compensation that has been provided by GoI to returnees. In some cases, returnees leaving their families abroad merely register and collect their compensation upon which they leave Iraq for their families once more.

There are no clear trends with regard to returns. A major impediment that discourages return is the lack of employment available to Iraqis returning to the country.

An international NGO in Amman stated that a figure of 15-18% unemployment in Iraq given by other sources is underestimated to portray the situation in Iraq. These figures are derived through International Labour Organisation (ILO) methodology which cannot be applied in the Iraqi context.

There is a lot of underemployment in Iraq and many merely are employed with casual labour. A modest estimate is that unemployment is at least 40%. Of the Iraqi population, 60 % is under 25 years of age, and thereby each year about a million persons are entering the labour market. It was added that ordinary people who are not employed within the government sector would state that they are unemployed.

The perception of employment is also very different in Iraq and the means of sampling needs to be modified to the Iraqi context. At least 40% of Iraqis do not have an income. The government of Iraq is by far the largest employer, as is the case in many Middle Eastern countries. Working in the private sector is regarded for “losers” while persons working in the state sector have some sort of security in their job and livelihood as well as access to services. Additionally as a civil servant, one has an acquired right to transfer one’s government employment should he or she relocate within Iraq.

According to Fyras Mawazani, NCCI, Amman, the very poor segments of Iraqi society were unable to flee Iraq while members of the lower middle class fled to Syria whilst the upper middle class members fled to Jordan. Returnees have come back to Iraq predominantly for economic reasons, although unemployment and housing needs continues to be a problem for such groups once they returned.

Refugees returning to Iraq also continue to face problems in light of the security situation. Despite the fact that the security situation in Iraq has improved during the last years with regard to the number of civilian deaths since 2007⁷, Fyras Mawazani, NCCI, Amman, felt it was too early to conclude that the security situation has stabilised, particularly in Baghdad and Mosul. Figures may indicate that security is better however, it would be misleading to conclude that security is guaranteed. There are daily explosions and attacks in Baghdad. In Southern Iraq, Fyras Mawazani, NCCI, Amman, considered it to be safer today than it used to be, but there are still problems over poverty and drought as well as lack of educational services. On the other hand, daily violence continues to be a problem particularly in central governorates, including Baghdad as well as Anbar.

Many Sunni refugees do not necessarily want to return home, as they may feel particularly threatened in their place of origin. Returnees from neighbouring countries and KRI mostly originate from predominantly Shia-dominated areas and are returning to the South. Some, both Shia and Sunni, will also not wish to return to their place of origin if they are perpetrators of human rights violations or other crimes and thus fear revenge.

Conditions today are not met so that Iraqis can be returned against their will, and NCCI has participated in international forums to lobby on the issue of return. In meeting its objective in capacity building and empowerment of civil society in Iraq, NCCI is currently working with 24

⁷ Iraqi Body Count, The annual civilian death toll from violence in 2009 was the lowest since the 2003 invasion, at 4,644 by Dec 31 (2008: 9,217), and had the lowest recorded monthly toll (205 in November). However, for the first time since 2006 there has been no significant within-year decline, and the second half of 2009 saw about as many civilian deaths as the first. This may indicate that the situation is no longer improving.

<http://www.iraqbodycount.org/analysis/numbers/2009/>

local partners points inside Iraq. NCCI has a memorandum of understanding with the 24 NGO partners who are all members of the NCCI platform to provide information on humanitarian issues, security, human rights and political issues. The 24 NGOs provide NCCI with bi-weekly reports on security and human rights violations in all of the 18 Iraqi governorates for the members of the NCCI platform. On specific requests, NCCI Amman is able to share some of its information.

2. Security and human rights for ethnic and religious communities

Concerning minorities UNHCR - Iraq, Baghdad stated that it appears that the government is ready to look into the issue of minorities. However, the economy is not stable in Iraq and the minorities (lacking armed protection) may be at greater risk of being targeted.

A reliable source [in] Iraq stated that generally, targets against persons for whatever reason may not be as rampant as in 2006-2007. Looking at calmer areas, it may be less likely that persons are targeted and the changing demographics also play a determining role. Persons finding themselves as a minority in a certain areas may be more vulnerable to attacks and threats.

Reporting what happens on the ground with regards to human rights violations is difficult. It was stated that reporting on human rights violations on the ground in Iraq only shows “the tip of the iceberg”. Capacity for independent monitoring is limited and underreporting is to be expected. Official reporting may be rushed and inaccurate, referring to the Ministry of Health’s hesitation to release genuine numbers regarding casualties in very critical periods.

Concerning the establishment of a National Human Rights Commission in Iraq, the source was hesitant in labelling its future establishment as “a milestone of historical dimension”.

Irrespective of where minorities find themselves in S/C Iraq, they may suddenly be at risk due to the cycles of violence that characterize S/C Iraq. There is no effective control and groups or individuals may find themselves at the wrong place at the wrong time. There may be periods of calm when suddenly violence breaks out. In such a situation, minorities will be particularly vulnerable.

Generally in KRI, there seems to be a higher tolerance for minorities, and KRG is more able to provide safety. In S/C Iraq (GoI area) as a minority, “your destiny is uncertain.” There is no law enforcement protecting minorities in S/C Iraq and no ‘minority-friendly’ body anywhere to provide assistance. In 2007, when Christians were being expelled from Baghdad, there were efforts to try and address issues related to selling of property to ensure that persons were not forcefully selling their houses.

Concerning the security and human rights situation, it is still unpredictable with regard to minorities. Today there may not be much to report, while next week there is plenty. There may be circumstances in which one’s background is relevant in relation to one’s security, be it ethnic or religious, or even one’s gender and age. However in other instances, it may be irrelevant. Essentially, place and time, as well as a range of other factors, may be determining.

Ethnic and religious minorities are in a violent environment often targeted as well as pressured into leaving certain locations. It was added that pressure to relocate can stem from a wish to influence demographics of certain areas. A person could be forced to sell his or her land and/or house and move away, or be deprived of services in a certain area. It was stated that pressure on minorities can derive from both authorities and local communities, however added that the situation is highly complex. There are centres of power locally, and the divides in society are also reflected in government.

Further it was explained that it is important to be cautious in using the term ‘ethnic cleansing’ and targeting on the basis of ethnicity in the Iraqi context. Reference was made to an incident in Mosul where a tax collector was assassinated. The tax collector was a Christian and it was the general

perception that the tax collector was killed due to his religion, however it became evident that he was targeted due to his profession and not because of his religious or ethnic background. Additionally, a Yazidi leader in Ninewa was arrested last November without a warrant. In the press the incident was blown up as a big issue and interpreted along religious/ethnic lines. However in actuality, his arrest was due to suspicion in connection with a bombing in Baghdad.

Essentially the situation of Iraq is chaotic and this is as much at the root of the issues facing Iraq and the violations that go on in Iraq. Indeed, there are also incidents where persons are targeted as much for their religious background or as a minority. However, it is not only religious or ethnic affiliation that determines whether or not a person would be targeted as this person's profession, his or her family's status and personal relations could also be crucial.

Regarding the flight of IDPs to Northern Iraq, an international NGO in Amman stated that some of the Christians from Mosul recently displaced in connection with the attacks in Mosul would probably go to the KRI or stay within the disputed areas. Generally, it is the impression that people are considering other options, i.e. going abroad, as they do not foresee any increase in security and stability in the near future. However, the number of IDPs will most likely not be significant as most have already moved. Most who do return to areas of origin, do so to homogenous areas.

None of the groups of minorities in areas of Iraq are able to protect themselves and demographics can be a determining factor, i.e. the local ethnic composition. Providing minorities with weapons is no solution as is evident in the case of Christians in Mosul.

A reliable source [in] Iraq explained that irrespective of what kind of minority one may belong to, one may be subject to risk in S/C Iraq and in disputed territories. Generally, it doesn't really matter what background you have. It really all comes down to the specific circumstances as well as place, time, etc. It is impossible to distinguish between minorities as to which group may be at greater risk as all potentially can risk attacks and persecution. For example, one does not generally hear of Feyli Kurds being attacked, however a Feyli Kurd or group of Feyli Kurds may find themselves in a place where intolerance or other factors put him or them at risk.

Some minorities had been arming themselves in order to feel safer, as was the case with Christians in Mosul city. Minority-based militias that did come about have largely all been incorporated into the law enforcement. Reference was made to KRG authorities having incorporating minorities in Mosul into their police forces and that there were plans to getting Christians into the police forces of Mosul city. However, Mosul remains a real mess.

Minorities are likely to be safer in the disputed areas compared to Baghdad, in terms of basic safety and risk of indiscriminate attacks. However with regards to access to livelihood, this may not be the case. Officially the disputed areas remain under the control of the GoI authorities and thereby GoI is responsible for providing security and services. However in actuality, minorities can be compelled to rely on the KRG forces in the disputed areas to obtain access to protection and services.

It is hard to say if persons displaced to disputed areas are likely to enter KRI to seek jobs etc., according to a reliable source [in] Iraq. It was added that currently in Erbil, there is more begging, indicating an increase in poverty among some IDPs. Christians it seems are able to make a livelihood in KRI because of strong networks in the area. KRG is perhaps not as supportive towards Turkmen due to the fact that the Turkmen stand on Kirkuk is that it should not come under KRG control. However, there are no reports of harassment of Turkmen in KRI.

2.1. Non-Arab ethnic communities: Kurds (incl. Feyli Kurds), Turkmen, Assyrians, Chaldeans, Shabaks

According to UNHCR - Iraq, Baghdad, Feyli Kurds are among some of the 130,000 stateless persons in Iraq. Others include Bidouns⁸ and individuals who have become stateless due to mixed marriages, e.g. children of mixed marriages or individuals acquiring another citizenship after marrying a person of another nationality. The number of Feyli Kurds who are stateless is however decreasing as they now in accordance with the Nationality Law of 2006 are now able to get their citizenship restored.⁹ UNHCR - Iraq, Baghdad stated that the situation of Feyli Kurds is one that is changing as they are eligible for restoration of nationality. Therefore the number of stateless Feyli Kurds is decreasing as is their vulnerability. However, there are a number of bureaucratic delays that affect this process. Additionally, UNHCR heard of a case where a Feyli Kurd from Khanaqin with no papers was told by the authorities to go to Baghdad in order to process papers.

Minorities such as Assyrians and Chaldeans as well as Shabaks, do not have armed protection and may be targeted by groups because of their religion.

According to a reliable source [in] Iraq, minorities in the disputed areas find themselves caught between the GoI and the KRG forces in the current political turmoil that characterizes the areas. An example is the case of Shabaks in Mosul. They are asserting that they are Kurds even though Shabaks are speaking Arabic and wearing Arabic customary attire. For minorities such as the Shabaks, it may be a better option to take the side of KRG, particularly as KRG forces are better organized and have greater abilities to provide a secure environment protecting persons at risk.

2.2. Palestinians

Concerning Palestinians, UNHCR - Iraq, Baghdad explained many of the Palestinian population, estimated at some 30,000, fled from Iraq in the years following 2003, because they were targeted. However, UNHCR continues to monitor the situation of Palestinians in Iraq, and added that while many are effectively locally integrated, particularly in Mosul, Baghdad and other locations, some individuals continue to be targeted, or face serious protection concerns. UNHCR carries out systematic counselling of this group and their situation is closely monitored. Individual cases facing serious protection concerns may be considered for resettlement. UNHCR - Iraq, Baghdad informed that about 13,000 Palestinians remain in Iraq. The height of the reprisal attacks against Palestinians was in 2006-2007. Currently, there are still incidents of discrimination at checkpoints. Palestinians in some cases can face arbitrary detention.

Concerning Palestinians, a reliable source [in] Iraq stated that there still are Palestinians in Baghdad and that they live in two compounds in Al-Baladiyya. The source did not have any information on the number of Palestinians living in Baghdad, but explained that “there are some”. Previously, in 2007, it monitored the group closely, and there were reports that police and others stormed their compounds. Palestinians were a targeted group after the fall of the former regime, however the

⁸ *Bidoun*, the Arabic word for “without” refers to persons without documentation to prove their nationality

⁹ Feyli Kurds were under Saddam Hussein’s regime stripped of their Iraqi citizenship.

storming of their compounds has since stopped, and the source stated that it is not following the situation of the Palestinians anymore.

2.3. Religious communities: Christians, Sabeen-Mandean, Yazidis, Jews

A reliable source [in] Iraq informed that there are still some incidents directed at Christians in S/C Iraq, however the source had not heard of any widespread targeting of particularly Christians. It was added that in Iraq, no matter what you are, you may be targeted. By complete fluke according to where you may be, you are never really safe in the highly volatile environment that still characterizes S/C Iraq. It may be the case that Christians today are getting by and have found a way of managing, however perhaps tomorrow this may not be the situation.

It was added that to the best of the source's knowledge, there are no Jews in Iraq anymore. Most Jews would have left for Israel some time back, while the very few that still lived in Iraq until recently are most likely to have left by now. However, the source could not exclude that one or two Jews were still living in Baghdad.

With regard to the Sabeen-Mandean, generally the situation in Iraq has gone backward and a far more conservative trend is winning ground. As a result, Muslims may be far more religious and less tolerant to other religious groups. Non-Muslims are easily perceived as infidels. Yazidis in particular are labelled as infidels due to their religious beliefs. However also so-called "people of the book", i.e. Christians, may not be tolerated and can risk being harassed and targeted. Harassment and threats may easily be directed at Christians who e.g. have alcohol shops.

3. Security and human rights for other groups

A reliable source [in] Iraq stated that in the current volatile situation in Iraq, professionals such as scholars, professors, judges, lawyers, medical doctors, government officials and journalists can be threatened by a number of groups. Journalists can even be threatened by the government.

It is very easy to threaten another person in Iraq without repercussions. An international NGO in Amman referred to a recent incident where it had invited different contractors for a tendering bid. Some contractors were being blocked at the checkpoint from coming into the office. Behind this was another contractor who had bribed the checkpoint not to allow certain contractors entry. An international NGO in Amman stated that one [of the international NGO's] senior national manager had received threats due to the fact that he had agreed to terminate a few positions. It is very common that in Iraq, you can be threatened for just about anything and the current tribal decentralisation is making this atmosphere of impunity more difficult to eradicate. In this environment lots of "freelance groups" are offering their "services".

In addition, the authorization from the government that a family can acquire a weapon is not helping this development. Another example is the decision made that now medical doctors are allowed to carry arms.

An international NGO in Amman explained that in contrast to previous evidence a person's profession in itself is not a reason for being targeted today. There has to be additional factors involved.

A source in Baghdad stated that certain professionals including judges, scholars, government officials, lawyers, medical doctors and journalists could be at risk of being targeted in S/C Iraq. Individuals may also be at risk of targeted attacks for having cooperated with the Iraqi armed forces, the MNF-I and/or US forces. In addition, persons working for foreign companies, former Baath party members and relatives to all the above-mentioned categories of persons could also be at risk of being targeted. However it was added that this particular issue was not a main area of focus of the source.

According to an international NGO in Amman, relatives to persons belonging to certain professions, such as judges or persons who have cooperated with international or government forces, are not systematically targeted by insurgents and armed groups.

Another important issue is that professionals are themselves lacking in Iraq due to the brain drain that Iraq has experienced. This is particularly the case of medical doctors. In terms of human resources, Iraq is in short supply.

According to a source in Baghdad, of individuals arrested and detained since 2003 by the MNF-I some are still detained by US forces held on grounds of being a threat to security. Less than 4,000 individuals are still held by US forces and a minority have not gone through any judicial process. The majority of these individuals are deprived of their liberties upon the request of the GoI.

An important place of detention used by the US forces was passed over to the GoI in mid-March 2010. Currently, the US only has one place of detention located near Baghdad airport. It is anticipated that this last detention place will be handed over to GoI, more specifically the Ministry

of Justice, in mid-July 2010. According to the security agreement with GoI, the US is able to do this up to 2011.

3.1. Professional groups

UNHCR - Iraq, Baghdad considered that professional groups such as scholars, professors, lawyers, judges, medical doctors, and senior military can be subject to threats and targeted due to their positions. Also government officials are targeted on the basis of their employments in government, particularly those who are higher-ranking. Journalists are at particular risk of being targeted by the authorities. Depending on function and level, former Baathists may still be targeted. A former Baathist affiliation could be an element that is cumulative in putting a person at risk of being targeted. However, some individuals have been targeted solely on the basis of former Baathist affiliation. Security has overall improved and the lowered number of casualties illustrates this being the situation. There are reported instances of that unsupported allegations have been made against Sunnis, accused of affiliation with AQI: such allegations may have lead to incidents of violence which has been seen in some incidents from Diyala.

According to a reliable source [in] Iraq, certain professions in S/C Iraq continue to be at risk of being targeting. Scholars/professors, journalists and medical doctors have been victim to threats and recently in Baghdad, university professors were targeted. Reports regarding these types of incidents occurring are received through NGOs, media and other channels. It is an issue however that the source is reliant on different networks within Iraq and that many NGOs may not have access to the green zone when it comes to human rights reporting. Human rights violations can take place without international observers being aware of it, and there are indications that underreporting is an issue, particularly when it comes to women and children. To the best of its ability, the source is attempting to strengthen civil society in this respect. Additionally, human rights defenders and NGOs find themselves at risk.

Medical doctors have been targeted earlier as well. There could be a range of reasons as to why medical doctors could be targeted. Perhaps they had treated women or were perceived as wealthy.

3.1.1. Judges and lawyers

According to a reliable source [in] Iraq, judges may also risk threats and attacks on their life. However, of all the professional groups that may find themselves at risk, judges are perhaps the best protected. Some judges live in safe-houses or compounds, for example Usafa in Baghdad, while many also have personal guards on a permanent basis.

A source in Baghdad confirmed that judges are at high risk of being targeted by private persons as well as by the authorities. The latter can occur when the court case is related to corruption on government level. Thus judges protect themselves with security personnel.

Christine Fowler, Project Manager, and Mohamed El Ghannam, Senior Programme Advisor, Rule of Law & Judicial Reform, UNDP - Iraq, Amman stated that there have been assassinations against the judiciary due to verdicts and that security for judges is a major issue. Iraqis have lost around 43 judges since 2003 and judges continue to be targeted. Threats against judges are experienced in different places throughout S/C Iraq, and consequently the Higher Judicial Council (HJC) has, in order to overcome this issue, established mobile teams of judges to enter into certain areas to take

on cases. It was added that this is a common phenomenon in post-conflict settings. With this approach, the judges are also less likely to be tribally-connected. However, a drawback of this approach is on the other hand that the judge is completely isolated and he or she could be less protected by local political and tribal affiliations.

There are protection mechanisms in place for judges which would comprise a minimum number of two personal guards and more for a higher grade. Personal guards are available to judges both day and night. However, the loyalty of guards is not always guaranteed. The matter of security mechanisms for judges is an issue of sensitivity between the Ministry of Justice and the HJC, and presently the Ministry of Interior is undertaking the task of providing protection to judges. It was added that it is fairly common across the Middle East that judges may be in need protection measures.

However, the loyalty of guards is always an issue to be considered. Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman referred to examples of parliamentarians who had been attacked by their own security staff. Consequently, persons in need of protection were more likely to hire persons from their own tribes, preferably even from their own family. This is seen more and more with members of Parliament who have a budget available to hire their own staff of guards.

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman informed that judges have been explicitly targeted since 2003 and that the profession is dangerous and stressful. It is difficult to say for what reasons judges are targeted, but in general it could be both simply because they are judges, or due to judgements that have been made. Other professions such as journalists, political persons have also been targeted, however the targeting of judges, has always been continuous. In the most sensitive cases such as terrorist-related cases and cases involving corruption, judges face such a high level of threat that they live and work in protected compounds. Assassination of judges continues today.

It was considered that the amount of targeting that judges experience could be fairly proportional to the security situation in general, i.e. the targeting of members of any other group, however underlined that it does not have any strong evidence to support this. As opposed to 2007 and 2008 when violence was rampant, it is not as bad as it has been. However, one does not see people flocking to the profession, but high ranking officials of the GoI would probably state that the situation has improved as compared to 2007 and 2008. The need for more judges could originate from the above-mentioned security issues; however there is no evidence to suggest that the quality of judges has decreased for this reason. The result is rather that there is a huge caseload constraint but this is not unique to Iraq, this is a serious problem in the whole Middle East as well as in North Africa.

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP – Iraq, Amman added that they had never heard the Chief Justice of Iraq state that he would relax the recruitment procedures of judges in order to recruit more judges. However, it is a general problem for Iraq that many intellectuals and professionals left the country when the violence escalated in 2006 and 2007 as the violence also targeted these people.

3.1.2. Journalists

David Helmey and Rania Guindy, IOM - Baghdad considered that journalists could be at risk [of being targeted], however that journalists are both victims and victimizers. It was added that there is no real culture for independent journalism in Iraq and journalists are also carrying out their reporting along ethnic, religious and political lines. Many journalists are themselves part of the power struggle in Iraq.

A reliable source [in] Iraq informed that journalists have been targeting for conducting investigations, e.g. into corruption issues, and as a result find themselves threatened. Also journalists looking into private disputes may experience threats.

3.1.3 Government officials

A reliable source [in] Iraq stated that government officials, like everyone else, can find themselves at risk. Government buildings are targeted fairly frequently however casualties are not only government officials and many civilians are victims of these attacks. Therefore, it seems that no matter one's background, suddenly one can find him or herself at risk.

Concerning government officials David Helmey and Rania Guindy, IOM - Baghdad stated that persons of a Director-General level and up within the various ministries may be under threat or fear assassination for different reasons. Government officials of a lesser rank are less likely to be under threat.

A source in Baghdad stated that it would be misleading to state that government employees or persons cooperating with government can be at risk of being targeted solely for this reason. The number of persons employed by the government is "gigantic". In Iraq there is still a very high level of corruption and tribal and ethnic affiliations and relations have a great influence.

3.2. Persons cooperating with US forces, international organisations or foreign companies

UNHCR - Iraq, Baghdad considered that some Iraqis working for UN agencies are not open about this due to fear of targeting. Because of the reliance of the UN on the support of the US Forces - Iraq (USF-I), this can be seen in some cases as affecting the neutrality of the UN. However, perceptions are also changing and UNHCR is well-known for its efforts to assist IDPs both in camps and in offering support in accessing official documents.

UNHCR – Iraq, Baghdad could not confirm that individuals working for foreign companies in Iraq were at particular risk of being targeted. One must consider that a lot of companies are looking at investment in Iraq and that obtaining employment in a foreign company is not likely to be a risk factor. However, one cannot rule out that persons working for a security company could be at risk.

Concerning threats to persons cooperating with foreign companies or international or Iraqi forces or with Iraqi authorities, an international NGO in Amman informed that to its knowledge, the targeting of the mentioned persons is not systematic. Generally, belonging to certain professional sector or cooperating with international or Iraqi forces or Iraqi authorities, is not alone a determining factor. On the other hand, one would not highlight one's affiliation with these international forces. It is not likely that a person would be targeted solely due to his profession. However in 2007, there was a wave of killings targeting medical doctors.

According to a reliable source [in] Iraq, former or present employees of foreign companies or former associates of the US forces or other coalition forces can still risk being kidnapped or attacked. Insurgents or AQI could perceive such a person as an enemy and therefore target him or her, but it comes down to where and when, as well as the local dynamics surrounding such an incident. The population in general is not negative towards persons who have cooperated with the US or worked for foreign companies. Such persons however, may be at risk of attacks or kidnappings from armed groups or criminal gangs.

David Helmeý and Rania Guindy, IOM - Baghdad stated that IOM has seen cases of individuals who work in the International Zone (IZ) of Baghdad that would not tell their families that they are employed in there as they fear being kidnapped or otherwise being targeted. Last year there was some targeting of professionals, however this year it seems to have lessened in Baghdad. However, there are lots of kidnappings made for financial gain and professionals are considered well-off or perceived as progressive by more ideologically-based perpetrators.

According to Hakan Salo, IOM - Iraq, Amman affiliation with MNF-I, or the Iraqi armed forces could make a person a target. Local nationals working for international forces or even international organisations and foreign companies are still targets. It was added that IOM's security analysis comes from UN mainly, together with local IOM contacts based in Iraq.

A source in Baghdad stated that individuals working as interpreters for US forces in detention facilities or elsewhere would possibly be at risk when their assignment will be over. It was added that the US have granted asylum to some of such persons.

The concept of occupation is still strong in Iraq and that the latest bombings near certain embassies in April 2010 of which the insurgent group ISI claimed responsibility may illustrate this clearly. The word 'occupation' is still in use and the distinction between foreigner and collaborator is not always clear depending on the political mood. Therefore to work for an international organisation or an embassy can bear a number of risks. One cannot exclude that relatives of individuals who work for foreign organisations [may] also be at risk by association. Targeting of individuals working for international organisations was an issue in the past. However, it very much depends on the situation and the line of work. A driver taking international staff around may be very visible to potential perpetrators while a cleaner employed by an international organisation is less so. There is not one way to depict the situation in Iraq and it really depends on the specific situation. This is not a "one size fits all" situation. It was added that in a city like Baghdad an individual employed by an international organisation may be one in thousands, while in smaller communities, this is probably much more visible.

3.3. Former Baathists

Former Baathists who have been involved in human rights violations and where this is known could be at risk [of being targeted]. UNHCR - Iraq, Baghdad considered that relatives of pre-2003 prominent figures who have been involved in human rights violations would not consider it safe to return to Iraq.

Regarding former Baathists party members and affiliates, a reliable source [in] Iraq stated this issue is like opening a Pandora's Box and it is very complex when it comes to assessing whether a person is at risk of being targeted for this reason.

According to a reliable source [in] Iraq, a former affiliation to the Baath party could add to a person's insecurity. However, being targeted solely with reference to former Baathist association is not likely as everyone employed by the previous regime had to be a member of the Baath party. However, a person with more zealous and well-known links to the Baath party may have more difficulty applying for a government position. However, tribal links and the particular situation and context play a determining role on whether this would be the case or not.

Whether or not relatives to persons threatened or attacked due to their professional background or Baathist affiliation may be at risk from armed groups or criminal gangs as well, the source stated that everything is possible. It is impossible to state whether this would be the case or not as it depends on the specific circumstances and context.

In considering the risk to former Baath party members, Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman, considered such risks today to be minimal due to the extensive de-Baathification process Iraq had endured, which had already hit people hard and was now starting to ease. After the fall of the former regime, it had been discussed to which level de-Baathification was required in Iraq and particularly the Shia Sadristes supported a thorough process. Nearly everyone had been affiliated with the Baath party during the Saddam Hussein era. Senior members who were genuinely at risk have either fled abroad, for example to Syria, or had already been dealt with harshly by the government. However, as of today former membership of the Baath party is not a determining factor when it comes to the question of whether or not a person would be targeted. Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman commented that Iraq had become overwhelmed by de-Baathification and ordinary people just wanted the process to end now. There are only few examples of assassinations of former Baath party members and since 2008 this issue has been minimal.

Additionally Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman explained that the Baath party also contained Shiites, Christians and other minorities, not just Sunnis.

Regarding former Baath party members, an international NGO in Amman stated that senior Baath party members are targeted especially in South Iraq and some central parts. However, such a person would need to be well-known to others and other factors such as having occupied a particular exposed position are likely to have influence the risks as well.

It was added that most senior Baath members left Iraq. On the other hand, accusing a person of being a former Baath member remains a favourite accusation. This can be problematic as a person wrongly accused may not be able to rectify such claims before action is taken against him.

David Helmey and Rania Guindy, IOM - Baghdad stated that IOM was not aware of individuals currently being at risk due to association with the former Baath party.

3.4. Forced recruitment, including recruitment of children

Concerning forced recruitment to militias UNHCR - Iraq, Baghdad informed that reportedly this may occur, but it is a sensitive topic that is not openly discussed and it is difficult to obtain reliable information about it.

Kent Paulusson, UNDP - Iraq, Amman stated that he has not heard of forced recruitment taking place in Iraq at present.

Concerning forced recruitment of persons by armed groups, an international NGO in Amman does not have enough information from the field to claim that it is widespread. There are some reports that children have been recruited by armed groups, however these are not cases of forced recruitment. Armed groups are rather exploiting weaknesses among certain vulnerable groups and thereby manipulating the most vulnerable into joining groups.

A reliable source [in] Iraq stated that persons claiming to have been or fear being forcefully recruited into armed groups cannot expect that the police can provide protection. Recent reports have shown that AQI is forcefully recruiting children in the area of Kirkuk. Children are forced to drive vehicles full of explosives or pose as suicide bombers and referred to by AQI as 'Birds of Paradise'. Children particularly vulnerable to forced recruitment are orphans. The delegation was advised to consult United Nations Children's Fund - Iraq (UNICEF - Iraq) in Amman on the issue of forced recruitment of children.

Adults could face threats of forced recruitment as armed groups still have the ability to control certain areas and impose fear and coercion. Local dynamics play a key role in determining the likelihood of such a threat as well as a person's origin, background and the context as well as timing. Others may have been pressured into an armed group. The extent of forced recruitment and pressure is probably less than earlier on a general level.

However, it is important to take into consideration the concept of decision-making in a post-conflict environment like Iraq. The mental space for individual thought, as well as the notion of privacy, is very different from other stable environments. Factors such as group affiliation, age, gender, timing and context all play a role in restricting space for individual thought and consent. The more educated a person is, the more likely he or she is to be able to make own decisions. It is difficult to state whether or not a person under threat from forced recruitment would be able to seek protection from the police as militias and/or armed groups may still infiltrate police forces.

Seamus Mac Roibin, Child Protection Specialist, UNICEF - Iraq, Amman, stated that UNICEF believes that there are instances of children being forcefully recruited by armed groups in Iraq, however that information of this occurring is difficult to verify. UNICEF is planning to establish a project in three of the worst-affected governorates to do assessments on whether or not this is occurring and if so, respond to the issue by creating a program for reintegration of children that have been affected by forceful recruitment. UNICEF is additionally facilitating the establishment of the Mechanism for Monitoring, Reporting and Responding (MMRR) to grave child rights violations in armed conflict where recruitment and the use of children in armed forces and groups are one of the focus areas.

According to UNICEF, children are being recruited and used by armed groups in the ongoing violence. UNICEF calls on all recruitment and use of children in armed groups in Iraq to stop immediately. Most armed groups have been using children, including AQI. The new Iraqi Army does not recruit children. For security and operational reasons, UNICEF can not mention names of armed groups possible involved in recruitment activity.

UNICEF stated that children have been significantly used in armed groups since the 1990s in Iraq and that they have been especially vulnerable to use by armed groups since the proliferation of militias and armed groups after 2003.

UNICEF stated that it has no confirmation that the group ‘Birds of Paradise’ is recruiting children for AQI but is extremely concerned of reports of any group supporting the recruitment and use of children by armed groups. UNICEF has received some verified and many unverified reports that hundreds of children are being used by various armed groups. Getting exact numbers of children in armed groups is challenging due to insecurity, fear of reprisals, present monitoring capacity as well as the fact that such information is concealed by armed groups.

According to UNICEF, children are being used to carry out tasks to support the objectives of armed groups and added that children attract less suspicion when carrying out actions. Many children are vulnerable to being used by an armed group due to the poverty and destitution which has been exacerbated by the conflict.

Because of cultural perceptions of age in Iraq children are expected to play adult roles as early as the age of 14 which could mean starting to become involved with armed groups. Generally, children can be easily manipulated, have less understanding of the consequences of their actions, do as they are told, and are loyal to the armed group.

Concerning functions children are carrying out for armed groups, UNICEF stated that children have been used to plant explosive devices such as roadside bombs, to transport explosives and equipment, to man checkpoints, as scouts, lookouts, and spies, and as suicide bombers. Some children are being tricked or coerced into carrying out functions for armed groups.

UNICEF has received reports of children being trained by various armed groups. It is likely that girls involved with armed groups are being sexually abused; after which, they are stigmatized, seen as spoiled, and often become expendable.

Regarding how children are being recruited, UNICEF stated that it has unconfirmed reports that children have been recruited from detention centers. Some children join armed groups voluntarily due to the prestige associated with being part of an armed group. Other children join for economic reasons to earn income to support their families. Girls that have been sexually abused are particularly vulnerable to being used by armed groups. UNICEF is concerned that media, particularly some television channels/programs, are being used to encourage children to join the cause of armed groups.

UNICEF informed that with its partners, it is conducting awareness and training at the community level on how families and communities can prevent children from being recruited and used by armed groups. It has established and is expanding a monitoring and reporting mechanism on all grave child rights violations including use of children by armed groups, killing and maiming of children, rape and other grave sexual violence, abductions, attacks on schools and hospitals, and the denial of humanitarian access to children. UNICEF is also planning reintegration assistance including life skills, psychosocial support, and vocational training to children who have been separated or escaped from armed groups.

4. Availability of protection from authorities against non-state actors

A reliable source [in] Iraq stated that Iraqis in S/C Iraq cannot turn to the authorities for protection from non-state actors. There is little real police activity in Iraq when it comes to protecting people making claims. A person can file a case, however very little investigation would be made into the case. The police are ill-trained and ill-equipped to take on such duties and efforts are especially needed to strengthen police capacity to this end. Structurally, the police are still “miles away” from being able to address reports that are filed.

It must be considered in the current situation in Iraq that crime also plays a major part in the volatile security situation. Gangs are looking to make money any way possible. It is fundamental to realize that in the current situation, the Iraqi authorities are unable to provide protection to its citizens and seeking the state’s protection really isn’t an option.

A source in Baghdad did not consider that a person in a situation where he or she has been threatened could seek the protection of the police. It was added that the threat could emanate from the police itself. If a person faces threats from private persons he or she is not likely to be able to find protection from the police. In many places in S/C Iraq, the police forces are tribally-based making it difficult for a person to file a complaint if he or she does not belong to the local tribes. Many Iraqis today believe that the best protection is to be discreet rather than make a case out of some dispute or conflict. The number of cases filed is minimal due to the fact that many conflicts and disputes are solved through traditional systems. If this is not an option, many flee their places of origin and settle elsewhere which is also reflected by the current demographics of Iraq. Reference was made to Anbar governorate which some years back was a patchwork of different ethnic groups, however today is largely Sunni populated.

David Helmey and Rania Guindy, IOM - Baghdad stated that Iraqis have little confidence in the Iraqi Security Forces.

4.1. Persons threatened by militias

On the question of whether a court would address cases involving those in fear of armed groups and criminal gangs, Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman explained that most judges would look at such cases. If a case is referred to a court, it is its obligation to address it.

4.2. Persons involved in private disputes

UNHCR - Iraq, Baghdad informed that disputes over property are significant and despite legislation decree on the restitution of property ownership as well as compensation, it remains a significant issue. Issues related to property are closely linked to sectarian fighting and/or to blood feuds, and therefore it is difficult to isolate such a dispute to being a private issue alone. Disputes of this sort must be considered case by case as a lot of dimensions can be involved. A person is free to file a case in Iraqi law courts, but there may be practical obstacles in doing so.

Concerning private disputes, an international NGO in Amman made reference to a staff member who bought a car from a relative. Prior to buying it, the relative had had an accident without resolving the conflict that arose from the accident. As a result, the new owner was confronted by the person affected by the accident and forced to pay a hefty amount of money, so-called blood money,

even though he himself had not been involved in the accident. In such a case, the police would not get involved, as people would resort customary tribal means of settling matters. Additionally, it is not likely that persons affected in such situations, would seek the assistance of the police or courts. It was added that if wrongly accused, going to the police or courts is not a solution. The perception is generally that this sort of recourse is not effective. According to the international NGO, Iraqis in many ways are right in this assumption and customary law is still being applied. A person with a cousin in the intelligence forces might go to him for assistance, however, any action the cousin might take, will be on his own behalf and not as an acting officer.

Concerning the option to seek protection in private disputes for example, a reliable source [in] Iraq stated that there is no clear pattern. In Iraq there is an element of tribal justice which people make use of.

However, it was stated that what is clear is that the administration of justice is far from ideal and that there are real structural deficiencies in the courts system. There are projects involving the building of pilot courts to address the issues.

4.3. Women at risk of honour crimes

A reliable source [in] Iraq explained that the police forces are tribally-based, however when it comes to issues related to honour crimes especially, there are efforts to try and break with how such cases are typically dealt with. On the other hand, there is a lot of tolerance towards the concept of honour and a widespread understanding in society of the male responsibility in preserving a family's honour.

However, due to advocacy, training and exposure of the issue of honour from a human rights perspective, a progressive attitude among police officers is materializing that honour crimes should not be tolerated. The change is slow and it is difficult to say that the issue is not as widespread as earlier. Positive steps have been taking in establishing directorates to address violence against women and the European Union Integrated Rule of Law Mission (EUJUST LEX) has been involved in training police in Iraq on how to handle reports related to honour crimes and women.

Women are however still in a fragile position and if a woman were to leave the country because of fear of becoming victim of an honour crime, she would probably not be able to return to her family. There are shelters in which women are protected and should a woman seek the assistance of the police, she is likely to be referred to a shelter. However, some of these women are vulnerable and can risk being trafficked and ultimately be arrested by the police for charges of prostitution. Reports are stating that this is taking place among some IDP women in Erbil, but it is likely that it's occurring all over Iraq. There are a number of Iraqi refugee women that have become victims of trafficking in Damascus and now make a living from prostitution there.

Concerning forced marriage, the reliable source in Iraq further explained that it uses the term with regard to marriages of girls under the age of 16 years. Girls or young women, who have run away from 'forced marriage' or an arranged marriage, are likely to face more difficulties in rural areas. In rural areas, a girl or woman going against her family is considered a person who isn't doing as she should, and she could risk becoming a victim of an honour crime.

5. Protection and tribal network

A source in Baghdad considered it difficult to find an Iraqi without a tribal network. In terms of return if an individual is returning after many years abroad, it may be hard to track one's tribal network again. However, it depends on one's family, its position and strength and how many remain in Iraq.

According to an international NGO in Amman, the whole tribal system has undergone some change since 2003. As opposed to earlier, the tribal structure has become more and more decentralized, pointing to the fact that self-proclaimed tribal leaders have emerged in different areas. The structure or framework of tribal society is currently more fragmented than ever before.

Regarding protection, it was stated that the question of whether or not this is available to a person very much depends on his or her tribal or political network. This relates to all above-mentioned categories of persons. According to the international NGO's own security procedures for its local staff in a situation of conflict, the police would not necessarily be the first instance one should contact. Concerning the security or police forces, it is hard to know "who is who" and the make-up of the forces, even for locals.

When asked about threats against persons of certain professions, e.g. judges, doctors or journalists, the international NGO explained that such a person is better protected in case of threats if he or she is linked to a tribe or political network. The most vulnerable persons when it comes to security are those who are independent of links, i.e. those without a tribal and/or political network.

Instead of turning to the police, persons under threat have the alternative to turn to tribes and/or political parties. It was underlined that tribes and political parties do not make up two entities and lots of intersections exist among the two. A person under threat would be best off seeking both options for protection if possible. It is impossible to give an overall illustration of this phenomenon and there is no overarching rule with regard to the relationship between tribes and political parties and protection mechanisms. Throughout Iraq, there are different mechanisms of checks and balances between the political system and the tribes, and this arrangement is fluid and prone to change.

Generally, customary tribal law is well-accepted and it is likely for persons to seek out settlements through tribal mechanisms. This is partly due to the fact that the vacuum after the fall of the former regime in 2003 was filled by militias and tribal arrangements.

Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman explained that the court system operates at every level of society. However, Iraq is a tribal society and people are very proud of their tribes. Tribal influence is in the "mind and soul" of Iraqis and most Iraqis would refer to their tribe when stating their last name. However, it was emphasized that the Iraqi justice system enjoys credibility among a large proportion of ordinary Iraqis. Up to 70% of all Iraqis have confidence in the judicial process.

Issues which could be considered at a tribal level would include family law, divorce, marriage and disputes between families of the same tribe. Where the issue is between two tribes or more or the grievance was more problematic to resolve, often such disputes would be resolved by the courts. It was added that when more than one tribe is involved, a conflict may be harder to solve. In such

cases, one of the tribes involved is likely to approach the court in order to settle the dispute. However, it was stressed that this assessment was largely anecdotal and added that it also depends on the level of conflict. It was added that UNDP does not have any data on which cases actually reach the courts. Additionally, in some cases, a settlement of a dispute within a tribe would be considered legal.

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman stated that it is not possible to conclude overall that the first recourse for an individual would be to turn to tribal mechanisms in order to seek protection or assistance. Tribes are active in cases related to civil matters and when e.g. two parties involved in a private dispute are from the same tribe, it is more likely that the case would be settled through the tribe. However, in criminal cases a person is more likely to turn to the courts while tribal mechanisms are more likely to handle matters of a more civil nature. Criminal cases should be reported to the courts through the police.

It was added that the Iraqi constitution in effect enables informal institutions to some extent by recognizing the role of tribal non-formal institutions and thereby creating a duality of rights.

The implementation of verdicts that are made is another issue to be addressed. Implementation should be carried out through law enforcement, and this is not effective as it should be. While verdicts coming from tribal leaders may be more effectively implemented on the ground as these verdicts are based on agreement between the tribes, this may not be the case with court decisions/verdicts and the police's inability to implement verdicts makes up a weak link of the justice system.

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman did not consider it likely that an individual would turn to the courts for protection after having sought settlement of a dispute or conflict through tribal mechanisms. When a matter is settled through informal institutions as the tribe, both parties have agreed to the agreement that is made. Therefore turning to the courts after tribal settlement is not likely to happen. Often before coming to a settlement, a financial bond or other bond is made between families or tribes involved to guarantee overcoming a conflict and adhering to a concluding settlement. It cannot be excluded that persons have gone to the courts after going through the informal mechanisms, however it was considered that only a very small percentage are likely to seek recourse through official channels afterward tribal settlement. It was added that Iraq is a tribal society and that this characterizes even the cities. Most persons would refer to their tribes in their surnames, including prominent Iraqis and political leaders.

6. Civil society organisations and protection

Fyras Mawazani, NCCI, Amman, stated the NCCI in Iraq was created in 2003 to exchange information on security and to co-ordinate activities among NGOs based in Iraq. The head office for the NCCI is based in Geneva, with offices in Amman, Baghdad and Basra.

NCCI's three main objectives as a platform for NGOs includes providing a humanitarian platform for information sharing and collection on the human rights and security situation in Iraq to all its members as well as others, advocacy on issues related to Iraq, including advocacy on the NGO law adopted in late January 2010, advocacy and lobbying on returnee conditions and finally, capacity building of civil society in Iraq.

Fyras Mawazani, NCCI, Amman demonstrated to the delegation a web-based platform tool accessible to its members, which provides information on the humanitarian and human rights/security situation in Iraq. Information uploaded on the platform is provided by a network of 24 local partners with whom it co-ordinates activities in Iraq.

NCCI produces trend analysis on various indicators including the security situation. This analysis is based on survey returns provided by its network of NGOs in Iraq.

Through its 24 local partners, NCCI is provided with a mapping of what NGOs are covering in Iraq and NCCI has an insight into how NGOs on a local level are working. NCCI is preparing an analysis on protection and human rights in Iraq based on information obtained through its 24 local partners.

An international NGO in Amman stated that there are many human rights NGOs within Iraq but most of them are focusing on humanitarian assistance and not on human rights issues.

When asked whether there are any civil society organisations that could be of assistance to persons under threat from government, a reliable source [in] Iraq stated that the credibility of NGOs in Iraq is one to consider. The divisions in Iraq along political, ethnic and/or religious lines are also reflected in civil society and currently it is difficult to find NGOs working outside this 'map' of Iraq. Civil society is highly politicized and it is difficult to find an NGO without political alignment. It is also important to consider that the development of civil society is still embryonic.

Additionally, NGOs are dependent on fund-raising and with most NGOs it is hard to establish what objective the NGOs are actually working towards. It was added that it is possible to find some highly motivated and organized NGOs and efforts are made at working to establish general criteria for possible cooperation with civil society organisations.

7. The judiciary and law enforcement

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman stated that UNDP can provide only very general information on the progress in Iraq and efforts that are being made towards a more predictable and robust climate of governance and rule of law. UNDP is not on the ground specifically in Iraq and does not collect its own data, therefore tracking particular issues related to governance and rule of law can be difficult.

Concerning fair trial, rule of law and protection by law enforcement forces, UNDP also referred the delegation to consult with UNHCR and IOM in Amman, as well as in Baghdad, that would be more capable in light of their mandate, to provide more specific information regarding protection needs of Iraqis, also in relation to issues of rule of law. Among other things, UNHCR and IOM have the responsibility to gather information on IDPs and their protection needs. UNDP is currently involved in capacity development of the government and the Iraqi state as well as the relationship between the state and its citizens.

The context of the systematic erosion of mechanisms and basic rights over a period of 30 years and effects of being a war economy and appliance of war politics must be considered when looking at the situation Iraq is in with regard to rule of law and governance. War in itself is harmful to processes of rule of law and governance, and even countries with very strong civil societies with many checks and balances and watchdog systems, experience extreme abuses of civil liberties in periods of war. In a country like Iraq, which has been fundamentally at war for a good period of 30 years, the situation is particularly acute.

Additionally, the occupation has polarized groups as well as introduced new polarizations in the country. This is a climate where institutions for rule of law and institutions of protection have been disintegrated. The government institutions, including the police and the military have been dismantled, and put together in an irregular manner without a lot of safeguards and even with persons from outside Iraq. This process has adversely affected Iraq and created conditions for insecurity and irregularities. Thus today an individual Iraqi will find it difficult to determine where to anchor one's rights and to protect oneself.

UNDP is currently primarily working on the modernization of the judiciary and providing technical assistance to areas of law drafting. Displacement in Iraq has led to massive legal work, including cases regarding ownership of property, transfer of residence and issues related to documentation as the system broke down during the war. Additionally, when caseloads are related to displacement, they are often complex, particularly as many include an overlay of sectarianism. It was added that it is hard to know whether this is related to sectarianism or purely a matter of property related issues/disputes.

Concerning the rule of law in Iraq, a source in Baghdad stated that the level of corruption is still very high in Iraq. The tribal component that characterizes Iraq makes it difficult for individuals without tribal links to knock on the door of the police who may be tribally-based. The source considered that the judiciary is eager to be independent and that there is plenty of goodwill. However, even as a judge or a public prosecutor, one is faced with the local realities, i.e. the local community which impact the system and in some cases families have successfully put pressure on a

judge in order to draw out a court case. While there is plenty of goodwill and judicial reform under way, Iraq still has a ways to go before one can speak of actual access to fair trial.

7.1. The judiciary

A reliable source [in] Iraq explained that there is no evidence of corruption in the courts system as such. However, one must consider that the traditional position of judges and the rather weak legal framework in Iraq. Criminal procedures and codes are particularly lacking. Furthermore, policies of going after “terrorists” and the attitudes of judges add to an inefficient and unjust system. Basically, persons on trial are not given access to their basic rights and the utmost reliance on confessions in making judgements is problematic. There is a need to shift from the French Code Napoleon system, i.e. a confessional, inquisitor based system to an evidence-based system in order to ensure a more just system. Efforts are made towards addressing this, including the education of judges and establishment of forensic institutes. When asked if the involvement of different countries in developing the courts system and law enforcement in different parts of Iraq is problematic, it was stated that the principles that need to be addressed are particularly universal guarantees, and therefore it is not really an issue that different countries are involved in the process. It was added that the issue is rather whether or not implementation is actually taking place and thereby changing a deficient system.

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman stated that with regards to development of rule of law, UNDP tries to identify the good elements within Iraq and champion them. The judiciary makes up one of the better institutions in Iraq and has always had a proud tradition based on strong principles. During Saddam Hussein’s regime, there was not a great deal of intervention with regards to the judiciary and in general, justices were enabled to act as justices. The judiciary remained largely independent with the exception of cases being of particular interest to the regime. However concerning ordinary court cases, a fair trial could be expected.

As of today UNDP could not be certain that the independence of the judiciary is the case for all of Iraq, i.e. throughout all governorates. There will always have been extreme cases, however, as a general rule UNDP - Iraq has been informed by different sources that the judiciary is one of the institutions that has been allowed to function largely independently. It was added that Iraqis have always had an extremely proud tradition for fair justice.

UNDP is focused on the modernization of the judiciary to enable it to manage the current huge caseload of court cases that exists in Iraq. Currently, the system cannot cope with a sizeable caseload, which has suffered a serious backlog since 2003, and modernization will first of all increase productivity of the qualified people in place. Secondly, UNDP is focused on bringing the judiciary into the 21st century and establishing shared norms of human rights practices. Finally, efforts are made towards cleaning out effects of influences of bad practices that exist caused by forty years of Baathist regime rule.

The Judicial Training Institute (JTI) is a statutory body and has always been there. However since 2003, it has been in crisis. With regard to accreditation, there has not been a relaxation of standards. There is a high standard for admission to the institute and there are no plans to slacken standards. A general problem for all of Iraq is that the country has suffered from intellectuals having fled, both due to sectarian violence as well as the escalation of violence in general. Certain professionals, especially law professors, have been targeted. It was added that the curriculum of the JTI has not

been revised for thirty years and the fact that all studies are purely theoretical is a point of weakness.

Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman stated that there are three projects currently being implemented in Iraq which relate to rule of law, and that these are funded by the European Commission (EC), Spain and Germany. The Rule of Law programme focuses on the development of judicial organisations of Iraq including the HJC and the Ministry of Justice, focusing on judicial training, the penitentiary system as well as a juvenile justice program. It was added that currently there are efforts towards establishing a new judicial institute.

The agency [UNDP] does not currently carry out much work in the field of law enforcement, although there were some small projects on law enforcement in Basra, funded by Japan which includes the building of two police stations, as well as work related to establishing mechanisms of oversight on law enforcement, which is still being implemented.

Presently, there are no overall human rights programmes for the judiciary. However, some human rights training for the judiciary has been implemented concerning the application of international human rights standards in Iraq. This training has been undertaken by UNDP Rule of Law programme, UNAMI HRO and the Iraqi Ministry of Human Rights. Currently the initial step in establishing an Iraqi National Human Rights Commission has been taken forward by a collaboration of agencies, including UNDP. UNDP - Iraq is taking the first step with UNAMI HRO in the kick-off of the project. It was stated that the establishment of NHRC would mark the start of a “decisive step and a historical moment in Iraqi history”. This work had been postponed recently, in light of [2010] elections, but it is expected that the establishment of a NHRC would take place in 2010.

In considering the availability of information on judiciary in Iraq, Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman stated it is not easy to find information on the matter, and commented that the judiciary had suffered three decades of non-development and neglect. It was emphasized that the judiciary is a sensitive issue in Iraq. Additionally, the judicial branch has experienced ongoing problems with the executive, i.e. the government. However, the judiciary in Iraq holds a high level of credibility among ordinary Iraqi citizens. The judiciary system in Iraq is the institution of highest credibility in Iraq and the least corrupted of all state institutions.

The judiciary and the regular courts had suffered due to the establishment of “irregular courts” and the verdicts that came from those courts. Both media and interference from occupying powers have shaken the courts system and additionally, non-development and degradation of services have impacted the credibility of the institution.

One of the few good decisions made by the Coalition Provisional Authority (CPA) after the fall of the former regime was the issuance of an order in 2003 that separated the judicial system from the Ministry of Justice and gave it its own independent administration under the HJC. The judiciary was as a result removed from interference from the executives, i.e. from the government, and provided with its own budget.

The independence of the courts is of crucial importance and the judiciary has remained independent from 2003 until now. However, there are some tensions between the HJC and Ministry of Justice, citing an example of disputes over judicial training arrangements which were finally settled through a compromise. This involved retaining the JTI under the Ministry of Justice as opposed to the HJC

with reference to the fact that candidates were not yet judges and therefore remained under the Ministry.

On the question of whether there were sufficient judges in Iraq, Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman explained that there was always a need, although the problem was mainly finding suitable candidates. Acceptance of applications to the JTI would be approximately 100 per year from over 1,300 applications. Admission is a key factor, as someone could not become a judge without graduating from the JTI.

In the KRI a separate judicial training institute had also been established. One of the reasons was that in 2009 not a single Kurd had been accepted into the JTI based in Baghdad. As training in the JTI is a requirement for becoming a judge, the KRG authorities favoured the establishment of their own training institute.

The HJC has commenced the establishment of their own judicial development institute dedicated to continuous education of the judiciary which is supported by the US. UNDP is currently working on drafting some of the civil law curricula while the US is offering [support] with regard to logistics, teaching mechanisms and criminal law curricula. Parts of the curricula dealing with commercial law are being reviewed by the US as well while UNDP is focusing on areas of the curricula related to civil law.

The judicial system in Iraq is strongly influenced by the French system and Napoleonic codes. Additionally, there are influences from the Egyptian judicial codes in the Iraqi system where elements of Sharia law are incorporated.

The Chief Justice of Iraq is the head of the HJC, and the HJC is composed of around 20 members who are responsible for the affairs of the Iraqi judiciary.

The Chief Justice runs the entire affairs of the HJC and applies what could be termed a 'micro-management' approach. The Chief Justice is a man with several positions within the system. Consequently, in order to implement programs directed at the judiciary, UNDP must go through the Chief Justice.

Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman also commented that the US trusts the Chief Justice, which had further consolidated his position. The Chief Justice enjoys a high level of credibility, and the personal influence of the Chief Justice is a desirable 'force' behind the judiciary that kept the judicial branch out of political affairs and helped maintain its integrity. On the one hand it could be perceived as negative that the judiciary is so dependent on the Chief Justice, however on the other hand he has been successful in shielding the judiciary from interference from other powers. It was added that the Chief Justice had succeeded in keeping the de-Baathification process away from the judiciary, a process which had been detrimental to important institutions like the police and army.

Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman explained that UNDP does not have insight regarding whether or not court decisions are enforced, however that research is being done on the matter. Enforcement of judgments ranks under the Ministry of Justice and the practical enforcement is likely to be carried out through the cooperation with the police. There is however possible risk of corruption or other factors influencing the imposing of decisions. There may also be instances where a tribal leader may have "issued his own verdict" which then is implemented

locally. It was added that tribal verdicts are being implemented quickly and to a much larger degree than court verdicts. Generally, persons who risk unjust treatment in a customary law setting are children and women. Issues of domestic violence are, for example, not put before the courts as it is generally accepted in society that such cases sort under the tribal domain. It was added that in the Iraqi code there is an article that essentially allows for an Iraqi husband to a certain extent to beat his wife.

However, when it comes to most other crimes, it was explained that they are dealt with in regular courts, although some are also being solved through tribal mechanisms. Particularly crimes involving fraud, e.g. of public finances and embezzlement, are being dealt with through regular courts and verdicts are seen as being upheld to a certain extent.

7.2. Law enforcement

Concerning access to protection and justice, Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman questioned whether an imperfectly performing system would be able to guarantee protection and fair trial. At present the judiciary is completely overwhelmed and whether or not this adds to a specific asylum claim must be based on the specific context of any particular case.

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP – Iraq, Amman stated that they did not have qualified information concerning law enforcement and police forces as UNDP is not working actively with the police. However, they informed that non-scientific surveys that have been made recently illustrate that the police is one of the institutions that Iraqis have the least confidence in. Reference was made to an incident only a few days ago [in early March 2010], where police officers from two different squads deliberately shot at each other. There are indications of certain officers manipulating the situation. In ranging levels of confidence in institutions, Iraqis have most confidence in the judiciary, followed by the army and much further down the list is the police.

Concerning fair trial, it was explained that the police answers to the Ministry of Interior while the judiciary answers to the HJC. This system of checks and balances is the best antidote to abuses and may be good for a system, however on the other hand, it also makes it hard to build a case and prosecute, e.g. in cases related to financial fraud.

On the subject of law enforcement, Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman explained that this is a “tricky issue”. UNDP have limited knowledge on the subject and suggested that the delegation should consult with UNAMI HRO. However, one of the biggest mistakes affecting law enforcement had been the dismantling by the occupation forces of the police and army, which had led to sectarian and political influences. The re-establishment of the police forces has not been built on the best established grounds. Police forces were formed applying a random approach and was affected by sectarian influences. Reference was made to how the Islamic Supreme Council had disarmed its own militia, the Badr militia, and assimilated it into the new police force. Consequently, the police have been drawn along sectarian lines. In most areas of S/C Iraq, the composition of police forces is Shia-dominated except in the Sunni-dominated areas like parts of Mosul (Ninewa), and the governorates of Anbar and Diyala.

The police forces have been previously accused of torture, and there is significant evidence that torture has been practiced by some of these forces. Additionally, impunity for executives is there for

everyone and an example was given of the previous Minister of Interior who had been accused of the use of torture and subsequently was moved to the Ministry of Finance.

UNDP also covers a programme pillar focusing on anti-corruption measures, concentrating on training and capacity building. A main impediment in anti-corruption efforts has been that the criminal procedures code did not allow senior positions, at Director-General level and above, to be referred to the courts without the sanction of the Prime Minister. However, this hindrance has been removed in 2009 and there were now cases of high level corruption being taken forward through the court system. Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman considered this to be an important step in its anti-corruption work.

Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman confirmed that an anti-corruption strategy had been drafted by the Iraqi stakeholders in coordination with UNDP and UNODC. However, it will not be released prior to the 2010 elections as this is a sensitive period in Iraq.

Mainly the European Union (EU) is tasked for activities concerning law enforcement. The EUJUST LEX programme has an office in Baghdad, mainly offering logistical support to the police, judiciary and penitentiary program. A point of criticism has been that, at earlier stage, most of their training in this respect had taken place outside of Iraq. The US also plays a major role in capacity building.

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman explained that international occupation for a country that has been steeped in its own traditions is extremely traumatic. At the moment, Iraq is still so close to a time when systems did not function, underlining that 2003 marks a watershed and that occupation essentially is only ending this year. Even though improvements have taken place, formally Iraq is still occupied up to the present time. The transition is still going on and law enforcement is possibly the weakest link.

A situation in which a person is not treated fairly, there are very few instances that one could argue that a person would have a recourse. With regard to police reporting, there are efforts aimed towards strengthening records-keeping. Monitoring of police should be done very locally and thereby monitoring the follow-up of claims being made by individuals. UN is working on a proposal regarding claims made concerning gender-based violence. It was added that especially the UK have been involved in capacity-building of the police in South Iraq. Additionally, the US, Japan and Italy as well as EUJUST LEX have been engaged in efforts towards this end in other areas of Iraq.

Kent Paulusson, UNDP - Iraq, Amman stated that he had worked with Iraq during the period 1999-2001 and 2003 until today. UNDP - Iraq currently has a pilot-project in Basra aimed at implementing watchdog mechanisms and enhancing a community-based approach concerning law enforcement. However, UNDP - Iraq is not focused on capacity-building of law enforcement in general, and therefore does not have the general picture of the situation in Iraq concerning this matter. There are indications of abuse of authorities in Iraq, and in [general] it appears that many are depending on tribal affiliations and tribal structures for protection. Law enforcement may be affected by the tribal influence. It appears that the tribal influence is strong in Iraq as control over tribes is weak due to an environment of tribal fragmentation. In opting to turn to the police for protection, a person might have to consider what individual tribe the force is based on and who a

person meets upon approaching the police. Tribal, as well as political affiliation, may affect how a person could expect to be assisted by the police.

A reliable source [in] Iraq explained that Iraq has seen a fragmentation of tribal cohesion since the downfall of the previous regime. Tribally-established police forces are created in different areas and these police forces are – almost without exception – based on tribal affiliation. Recruitment of police officers takes place on a tribal base.

Concerning recruitment to the police forces, Kent Paulusson, UNDP - Iraq, Amman stated that recruitment of police forces is closely connected to the tribal composition of an area. Persons in need of protection in many cases may depend on their tribe. It was added that Iraq in some ways has similarities to a feudal society where allegiances and tribal affiliations play a big role.

It is very easy to falsify documents in Iraq, either to one's advantage or disadvantage. It was added that in general, ordinary people are afraid of the police and there is a sense that police can be influenced. The status of the police in Iraq at the present stage is that with assistance from external partners such as the UK and others, it can be improved.

Kent Paulusson, UNDP - Iraq, Amman referred to a project in Basra that is currently attempting to address issues related to law enforcement by implementing a system of community-policing thereby enhancing the local community's trust in the police. The project is only just beginning, however hopefully the project will lead to wider interest within the Iraqi Ministry of Interior and donors to broaden such efforts. With the current state of law enforcement in Iraq, it would be fairly easy to improve it considerably. There is a need to enhance police forces abilities and to work towards their role being servicing the population instead as it is often perceived as a threat. The dismantling of the forces in 2003 has been detrimental to the system, as has an environment of extensive abuses of the past. There are indications that applying abuses is continuous today, and some do so for personal gains.

Finally, it was stated that infiltration of police forces by militias or other armed groups is likely to remain a problem for Iraq for some time to come.

7.3. Access to fair trial

A reliable source [in] Iraq stated that generally it is not likely that persons have access to fair trial even in cases involving private disputes. There is no evidence that tribes are actively interfering in courts, however civil courts may be susceptible to bribes or out of fear to be biased in relation to local tribes. However, it is quite evident that there is an absolute lack of fair trial in criminal proceedings, particularly in cases regarding "terrorism".

Persons involved in private disputes could in some cases have access to a fair trial, however it is difficult to break with how trials are conducted regardless of whether it may be in a civil or a criminal courts context. When asked if Iraqis have access to an independent judiciary, the source explained that in terms of interference from e.g. tribes in the work of the judiciary, this might occur less in urban areas as opposed to smaller towns and rural areas.

In considering access to fair trial, Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman clarified that it was important not to generalise when it comes to the judicial system. It was stated that there is an important difference between the "regular" and "irregular" courts and that

when it comes to regular disputes, the regular courts were considered more credible and they enjoy a higher level of credibility by Iraqi citizens. Iraqis get a fair trial when their cases are reviewed before civil and regular criminal courts. However, when the raised accusations are within terroristic activities, then the Central Criminal Court of Iraq (CCCI) is in charge. Fair trial rights are not up to the international standards within these courts.

However in relation to those trials which have adjudicated terrorists, there have been so many irregular courts set up, for example by the Ministry of Interior and Ministry of Defence. This together with violations of human rights in pre-trial detention facilities, which are overseen by a number of different Ministries, has been problematic. It was added that the intelligence forces also have their own detention facilities.

Most human rights violations are committed in pre-trial detentions. Pre-trial detention is by far the gravest period of detention. The main penitentiary system is under the Ministry of Justice that implements the verdicts from the regular courts. The regular prisons enjoy far better conditions than other detention centres under other institutions. UNDP visits to detention facilities in Iraq have shown that regular prisons are far better in respecting human rights and providing a higher standard of custodial care.

Mohamed El Ghannam, UNDP - Iraq, Amman explained that he had personally visited many regular as well as irregular prisons in Iraq and commented that regular prisons were far better for respecting human rights and providing a higher standard of custodial care.

According to Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman, pre-trial access to justice was not as good as it should be and that this was one of the main problems the international community needed to address. Access to lawyers is allowed according to the law, but implementation is different and in some respects this is considered a formality in which a defence lawyer will simply be appointed so that his presence could be noted by the court. It was added that it happens now and then that the lawyer of a detainee does not even have access to visit his client. Additionally, the period of time under which someone can be detained is not respected as it should and the system suffers from a backlog of applications to extend detentions which furthermore are not properly scrutinised by judges. Many detainees may not have seen a judge for several months or even years. It also occurs quite often that an extension of the detention period is taking place without the detainee being presented to a judge. However, it was reiterated that most human rights violations do happen in irregular courts systems.

There are no witness protection programmes in Iraq. An individual filing a case cannot file one anonymously. There may be regional variations and filing a case in Baghdad may be safer as the city is multi-ethnic and multi-sectarian and not dominated by one religious group, tribe, political party or sect. In other more homogenous areas, there may be more uncertainty as to one's insecurity or risk of involvement from tribes. In Baghdad and Basra, tribes are likely to have a minimal affect as these areas are in a sense more "cosmopolitan" as opposed to other areas where tribal affiliations and power have a greater influence. Baghdad, however, could be much more insecure in the sense that there are many political targets in the city, such as ministries and government institutions and police forces and that that in itself is a risk to consider.

There has been some legal aid centres established throughout Iraq and [these] are assisting Iraqis with regard to how to file a case and creating access to the courts systems for Iraqis. However, legal

aid centres have particular mandates and it varies which matters the different centres focus on, e.g. property rights, documentation issues, gender etc.

7.3.1. Persons suspected of terrorism or insurgent activities

A reliable source [in] Iraq stated that monitoring of criminal courts in Baghdad has shown that persons accused of terrorism do not have access to a fair trial. Monitoring revealed that a detainee would only upon arrival to the court have a lawyer appointed to him, however without getting the chance to speak with the lawyer. Detainees were not made aware of their rights and a court case would typically take from 20 to 30 minutes. No witnesses were brought forth and there were no statements or presentation of evidence. These court cases are solely confession-based and it is more likely than not that confessions come about through duress in detention. The same procedures continue today.

The MNF-I is now slowly handing over persons detained by them on suspicion of terrorist activities to the Iraqi authorities. However, at the moment a small number high profile suspects are still held by MNF-I. The source could not confirm that the MNF-I hold hundreds or even thousands of detainees suspected of terrorism.

On the subject of those suspected of involvement in terrorist activities, Christine Fowler and Mohamed El Ghannam, UNDP - Iraq, Amman confirmed that there had been reports of individuals being detained for long periods on the basis of allegations, hear-say or anonymous testimonies with pre-trial detention periods lasting months or possibly years. There are examples of courts accepting anonymous testimonies and persons being detained only on this basis. A person suspected for terrorist activities, and having been in detention for so long, would have his reputation tarnished. Following a person's release, he/she would most likely be treated with suspicion by the authorities and he/she may be faced with problems in finding employment in the public sector. It was added that in Iraqi society, rumours could be very effective in this regard, and detention could harm a person in many respects.

It was confirmed that minors are also detained on grounds of suspicion of terrorist activities, e.g. for passing information for terrorists or involvement in suicide attacks. Some children are held in detention facilities with adults. It was suggested that the delegation consult with UNICEF - Iraq on this issue as UNICEF has a child protection specialist, and added that UNICEF also has a project on juvenile justice in Iraq.

7.3.2. False accusations

A reliable source [in] Iraq considered that false accusations against persons, e.g. that a person is a former Baath member could happen. This used to be a typical accusation however incidents are likely to be lower now. However, in connection with the 2010 elections, Iraq has witnessed a renewal of the Baathist factor.

Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman stated that the issue of false accusations is one of the most challenging areas. Alleging or making false accusations is so easy and in an environment like Iraq, the potential for false accusations is huge, particularly among persons under stress. Additionally, the Iraqi tradition of confessional justice, i.e. not evidence based makes individuals more vulnerable to false accusations or allegations. However on the positive side,

by and large, Iraqis are extremely honourable and lying and cheating the system is not widespread among Iraqis. There are sociologists, e.g. a sociologist from University of Baghdad, Dr. Adnan, who asserts that according to Bedouin culture that has influenced Iraqi society and that there is a high code of honour within tribes however, dishonourable acts outside one's tribe could be accepted if in the interest of one's tribe and for protecting one's own tribe. However, such assertions should be mediated with the fact that for many years, Iraq has had very strict and disciplined non-sectarian institutions under Saddam Hussein's regime.

Concerning whether or not individuals would seek protection from the police in relation to false accusations, Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman explained that individuals are approaching the police rather than their tribe first, but that there are different factors to consider, e.g. if this is happening in an urban or semi-urban environment. In urban areas Sylvia A. Fletcher and Mohamed El Ghannam, UNDP - Iraq, Amman did not consider that an individual would approach his or her tribe before approaching the police, however it is difficult to ascertain that this is the situation. Approaching informal institutions is a recourse that is used.

A source in Baghdad explained that popular accusations include having sheltered insurgents or having supported them or held weapons at home or having been affiliated with the former Baath party. An accusation of having cooperated with the government by providing information, or cooperation with the US forces or the MNF-I can also trigger a sense of revenge in a local community or threats from insurgent groups. Therefore false allegations can imply targeting at both the hands of the government as well as the local community or insurgents in a given area.

Acts of revenge are high. To denounce or to express a fake allegation against someone is common practice. What consequently can happen to this person at the hands of the GoI is a serious issue. If one wants to get rid of a neighbour, it is easy to spread a rumour that he or she is an insurgent and the chance of this person getting arrested is considerable. To denounce a person in order to have him or her arrested is still a common practice as a means of seeking retribution.

8. Internal Flight Alternative in S/C Iraq

Concerning internal flight alternative (IFA), UNHCR - Iraq, Baghdad stated that stateless people are particularly at risk as they cannot move without documents and access their rights, including food rations through PDS system. In the current situation many people are moving and staying with relatives which itself leads to overcrowding and a number of social issues. Politically there is reluctance to see the changing of the demographics of Iraq and this is a challenge in identifying and implementing sustainable solutions for IDPs.

Officially according to Iraqi law, any Iraqi is free to move throughout Iraq and settle where he or she wishes. However, on a practical level this is not the case, particularly for persons wishing to relocate from the disputed border areas to KRI. The situation varies from place to place, however the concerns of changing demographics and resistance towards this is a major impediment when it comes to implementing sustainable and durable solutions for internally displaced in Iraq.

UNHCR - Iraq regularly reviews its return advisory and eligibility guidelines to reflect the current situation in Iraq, and expects to update them during coming months. The agency has close cooperation with UNAMI HRO.

Individuals and organisations consulted

A reliable source [in] Iraq.

A source in Baghdad.

A UN source [in Baghdad].

An international NGO in Amman.

Christine Fowler, Project Manager, Rule of Law & Judicial Reform, UNDP - Iraq, Amman.

David Helmey, Operations Officer, IOM - Baghdad, Baghdad.

Francine Pickup, Head, Inter-Agency Information and Analysis Unit (IAU), Strategic Planning Advisor, Office of the Deputy Special Representative of the Secretary-General and Resident and Humanitarian Coordinator (ODSRSG RC/HC), Amman.

Fyras Mawazani, Executive Director, NGO Coordination Committee for Iraq (NCCI), Amman.

Hakan Salo, Regional Security Advisor, IOM - Iraq, Amman.

Kent Paulusson, Senior Mine Action Advisor, UNDP - Iraq, Amman.

Liana Paris, IDP Monitoring Project Officer, IOM - Iraq, Amman.

Mohamed El Ghannam, Senior Programme Advisor, Rule of Law & Judicial Reform, UNDP - Iraq, Amman.

Nicola Graviano, Programme Manager, IOM - Iraq, Amman.

Rania Guindy, International Caseworker, Overseas Processing Entity, IOM - Baghdad, Baghdad.

Seamus Mac Roibin, Child Protection Specialist, UNICEF - Iraq, Amman.

Sylvia A. Fletcher, Governance Team Leader, UNDP-Iraq, Amman.

UNHCR - Iraq, Baghdad.

Abbreviations

AOG – Armed Opposition Group

AQI – Al Qaeda Iraq

AVRR – Assisted Voluntary Return and Reintegration

BDM – Bureau of Displacement and Migration

CCCI – Central Criminal Court of Iraq

COIS – Country of Origin Information Service

CPA – Coalition Provisional Authority

DIB – Disputed Internal Boundary

DIS – Danish Immigration Service

EC – European Commission

EU – European Union

EUJUST LEX – European Union Integrated Rule of Law Mission

GoI – Government of Iraq

HJC – Higher Judicial Council

IAU – Inter-Agency Information and Analysis Unit

IDP – Internally Displaced Person

IFA – Internal Flight Alternative

ILO – International Labour Organisation

INGO – International Non-Governmental Organisation

IOM – International Organization for Migration

ISI – Islamic State of Iraq

IZ – International Zone

JTI – Judicial Training Institute

KDP – Kurdistan Democratic Party

KRG – Kurdistan Regional Government

KRI – Kurdistan Region of Iraq

MMRR – Mechanism for Monitoring, Reporting and Responding

MNF-I – Multi National Forces - Iraq

MoDM – Ministry of Displacement and Migration

NCCI – NGO Coordinating Committee for Iraq

NGO – Non-Governmental Organisation

OCHA – Office for the Coordination of Humanitarian Affairs

ODSRSG RC/HC – Office of the Deputy Special Representative of the Secretary-General and Resident and Humanitarian Coordinator

PAC – Protection and Assistance Center

PDS – Public Distribution System

PUK – Patriotic Union of Kurdistan

S/C Iraq – South/Central Iraq

SG – Secretary-General

SSI – Security Section Iraq

UK – United Kingdom

UN – United Nations

HRO – Human Rights Office

UNAMI – United Nations Assistance Mission for Iraq

UNODC – United Nations Office on Drugs and Crime

UNDP – United Nations Development Programme

UNDSS – United Nations Department for Safety and Security

UNHCR – United Nations High Commissioner for Refugees

UNICEF – United Nations Children's Fund

US – United States

USF - I – United States Forces Iraq

Annex 1: Map of Iraq

